

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2005/1502	1.1	Rosliston	Linton	1
9/2006/0200	1.2	Repton	Repton	6
9/2006/0216	1.3	Etwall	Etwall	13
9/2006/0281	1.4	Stenson Fields	Stenson	16
9/2006/0348	1.5	Church Gresley	Gresley	18
9/2006/0354	1.6	Sutton on the Hill	North West	23

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

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

16/05/2006

Item 1.1

Reg. No. 9/2005/1502/F

Applicant:
 South Derbyshire District Council
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Agent:
 Facilities Development Officer
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Proposal: The formation of a performance arena and associated building, floodlighting and provision of seating at Forestry Centre Rosliston Farm Burton Road Rosliston Swadlincote

Ward: Linton

Valid Date: 31/01/2006

This application is brought before this committee because the Council is the applicant.

Site Description

The application site lies well within the boundaries of the Forestry Centre. A belt of trees along the road frontage and an internal roadway separate the application site from the nearest public highway that lies around 65m away. The land is currently used for archery. It is a circular site of some 60m diameter that is surrounded by a bund approximately 1.6m high. Outside the bund is a band of young pine trees that are presently around 4m high.

Proposal

It is proposed to erect an open fronted timber clad building 15.8m x 11.8m x 4.7m high at the entrance to the arena to be used as the stage/performing area. Two tiers of seating are to be formed in the existing perimeter bund and six lighting columns each 5m high are to be located around the perimeter behind the seating. The floodlighting columns have been increased in number from five to six but reduced in height from 7m to 5m during the consideration of this proposal.

Planning History

There have been numerous planning applications at the Forestry Centre as a whole but none relate specifically to this part of the site.

Responses to Consultations

Rosliston Parish Council object to the application. It considers that the general tenor of the application is against the original concept of the Centre and the operation of the floodlights between 8.00 am and 11.00 pm is far too long. In response to this concern the Centre Manager advises that the times that the lights would be on would not mirror the entire opening times of 8am – 11pm that are set out on the application form. The Parish is also concerned about noise nuisance and is aware that neighbours have genuine concerns and objection to the lighting. The Pollution Control Officer shares the concerns about lighting and recommends that a condition be imposed on any permission to minimise excess light or glare. The Pollution Control Officer also recommends that a contaminated land survey be carried out. The County Highways Authority and Severn Trent have no objections although Severn Trent has also requested conditions.

Responses to Publicity

There has been no response to the site notice posted in relation to this application.

Development Plan Policies

The relevant policies are:

RSS8: Policies 25 and 32

Joint Structure Plan: Leisure and Tourism Policies 1, 2 and 3

Local Plan: Recreation and Tourism Policy 1

Planning Considerations

The main issues central to the determination of this application are the impact of the proposal on both the countryside and neighbours.

Planning Assessment

The concept of providing and enhancing leisure and recreational activities is supported at all levels of policy and therefore there is no objection in principle to this application.

As set out in the description above, the site is well screened from the public highway. Nevertheless it was considered that the lighting would be obtrusive during the periods that it would be switched on due to the height of the columns and the angle of the lamp heads. The height of the columns has been reduced and the lamp heads can be dealt with by condition and this element of the proposal is now satisfactory.

As to occupants of neighbouring properties, the site lies within the countryside and there are few residential properties in the locality. The closest dwelling lies around 100m from the site and is within the nearby commercial garden centre. A second dwelling is located a further 50m away on the edge of the nursery that adjoins the garden centre. These two commercial enterprises are operated jointly. Beyond that there is a dwelling some 200m away. It is considered that the performance arena would not be significantly detrimental the existing amenities.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing and email received on 28 April 2006.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).
Reason: To preserve amenity and/or prevent danger to road users.
5. No work shall take place on the site until an adequate site investigation and assessment of ground stability has been undertaken and submitted to the Local Planning Authority, and the development shall incorporate any measures shown in that assessment to be necessary for the stability of the development.
Reason: To ensure the stability of the development, having regard to the comments of the British Coal Corporation (see copy letter attached).
6. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protecting and pollution control.
7. No building shall be erected or trees planted within 2.5m of the public sewer which crosses the site.
Reason: To maintain access for maintenance, repair, renewal and to protect the integrity of the public sewerage system.

8. All service cables shall be located underground unless specifically agreed in writing by the Local Planning Authority.

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

Informatives:

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

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

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

Further guidance can be obtained from the following:

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

Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning

application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

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

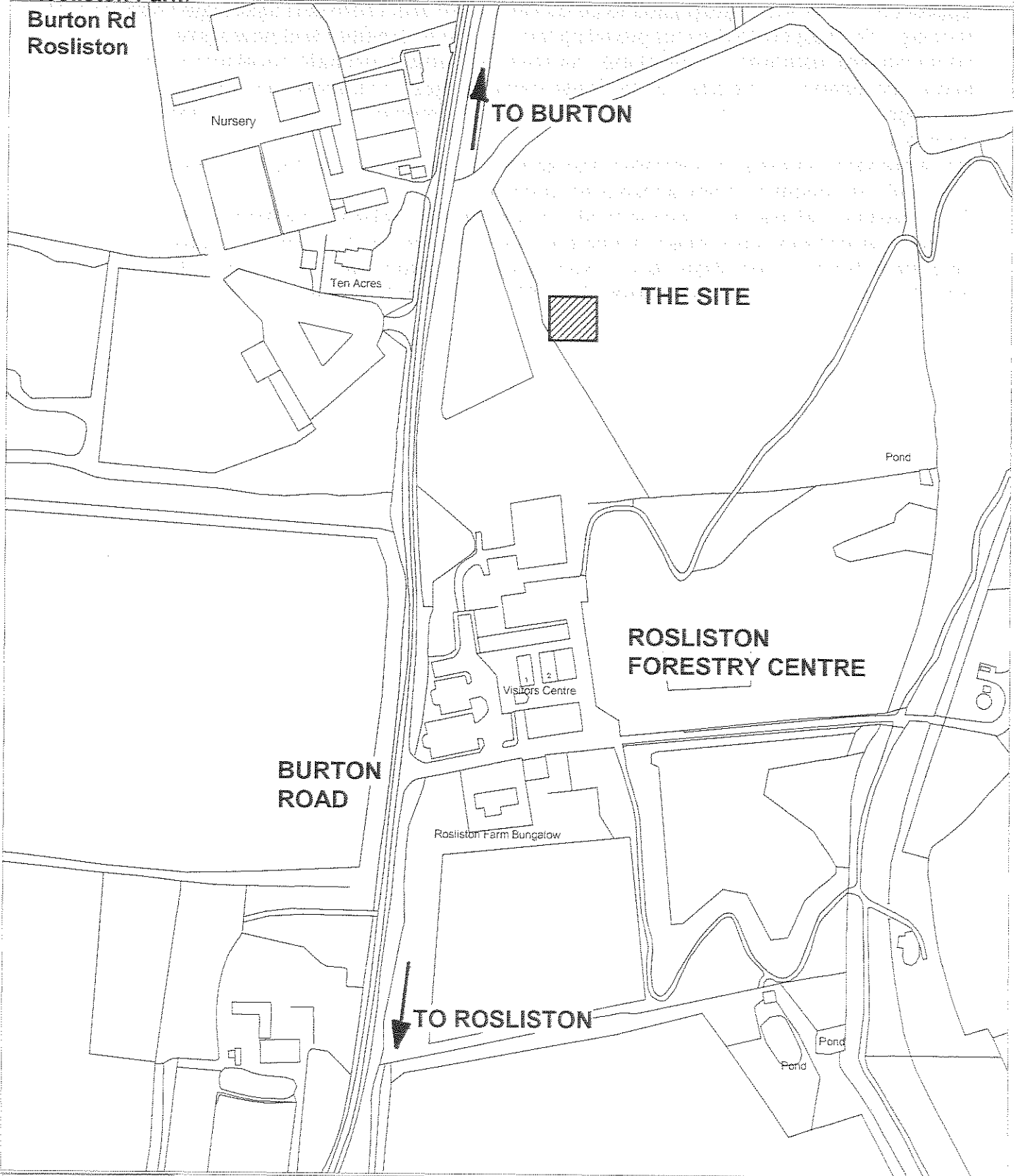
The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

To contact Severn Trent Water if you wish to apply to divert the sewer in accordance with Section 185 of the Water Industry Act 1991. (Contact N Vaghela - 0116 2343146)

9/2005/1502/F Forestry Centre

Rosliston Farm

Burton Rd
Rosliston



Reproduced from the 1996 Ordnance Survey mapping with the permission of the controller of Her Majesty's stationary office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Scale 1:2500 Date Plotted 4/5/2006

Plot centred at 424290 317555



9/2005/1502/F Forestry Centre
Rosliston Farm
Burton Rd
Rosliston

16/05/2006

Item 1.2
Reg. No. 9/2006/0200/MR

Applicant:
 Mr G Jones
 4 Trent Lane
 Weston On Trent
 Derby
 Derbyshire

Agent:
 M. Blood
 M. A. Blood Building Design
 6 Brecon Close
 Spondon
 Derby
 DE21 7JD

Proposal: The erection of thirteen dwellings at Land At 22 28
 Askew Grove Repton Derby

Ward: Repton

Valid Date: 07/03/2006

Site Description

This cleared site, some 53m wide by 40m deep and previously occupied by two pairs of semi-detached houses, is on the north side of Askew Grove and on the east side of the public footpath, known as Cinder Track that links to Milton Road. The dwellings formed part of an existing small estate of similar post war dwellings of timber construction clad in timber and ash felt tiling.

Proposal

It is proposed to erect 13 dwellings in four blocks of terraces: two blocks of three facing Askew Grove; a block of four facing the Cinder Track and a block of three within the site facing the proposal communal parking area of 26 spaces. The vehicular access to the site would be from Askew Grove between the two blocks of terraces.

It is proposed to erect a railing fence in front of the proposed block of four dwellings facing Cinder Track prevent direct pedestrian access from the dwellings to the Track.

The dwellings would each be 5.6m wide and, for plots 4 to 10, 4.4m to the eaves on the front elevations and 5m on the rear elevations and 8.5m to the ridge. Plots 1, 2 and 3 and 11, 12 and 13 would be 4.4m to the eaves on the front elevation and 5m on the rear elevation and 8.8m to the ridge. The gable spans on the seven most prominent plots at the corner of Askew Grove and Cinder Track (plots 4 to 10) would be 8m and the remaining six plots would have 8.5m spans. Each dwelling would have a pair of pitched roof dormers at first floor breaking through the eaves line to give a cottage style appearance. A further bedroom would be provided in the roof void giving each dwelling three bedrooms in all.

The alignment of the dwellings on plots 1 to 10 adopt a perimeter block format with their elevations facing Askew Grove and Cinder Track. Dwellings on plots 1, 2 and 3 would be sited 7m from the back edge of the footway on Askew Grove (excluding the highway turning circle), 4, 5, and 6 at the corner of Askew Grove and Cinder Track would be sited 2.6m from the back edge of the footway on Askew Grove and 7, 8, 9 and 10 sited 3.4m from the back edge of Cinder Track.

The roof detail would include exposed rafter feet at the eaves and barge boards on the gables.

Planning History

Planning permission was granted for six detached dwellings in June 2005.

Responses to Consultations

The Highway Authority raises no objection subject to minor amendments to secure safe access. The amendments are with the Highway Authority for consideration and its comments were not available at the time of writing this report.

Severn Trent Water raises no objection to the proposal subject to adequate disposal of surface water and foul sewage.

The Pollution Control Officer has noted that fires on site occurred during demolition and has suggested a narrative be added informing the applicant that a site investigation may be prudent in these areas to confirm the suitability of the land for the proposed development.

The Education Authority has requested a contribution of £18,432

The Primary Care Trust has requested a contribution of £5,772

Repton Parish Council objects to the proposal on the following grounds:

- Mature trees have been felled despite the application form indicating that no trees would be felled.
- Not in keeping with the area
- Would result in a major change to the appearance of Askew Grove and The Crescent and is overdevelopment of the site
- It is too urban and should be designed to reflect the design of those already there
- It would introduce an added hazard with there being no pavement on the opposite side of Askew Grove
- The road is not designed to take the extra traffic that would be generated, which is already used as a short cut from Milton to the centre of Repton
- Askew Grove is already congested with vehicles at school times
- Emergency vehicles already have problems getting from Askew Grove onto Springfield Road
- The sewerage system is inadequate and there have been reports of sewage overflowing
- A Section 106 Agreement should involve dialogue with the Parish Council

Responses to Publicity

The Repton and Milton Village Design Group object to the proposal on the following grounds:

- It runs counter to some of the guidelines in the draft Village Design Statement:
- It bears no relationship with the character at the top of Askew Grove and The Crescent and particularly the post war Cedar housing.
- It does not reflect the surrounding areas building alignment and aspect.
- The materials, doors and windows do not reflect the character of neighbouring dwellings.
- The removal of the hedge along Cinder Track would change its open character.
- The number of parking space is inadequate for a rural village with limited public transport services and will give rise to significant on-street parking.
- The frontage boundary treatment is not in character with the use of brick pillars.

The Repton Village Society objects on the following grounds:

- Not in keeping with the The Crescent and the top of Askew Grove.
- The proposed number of dwellings is excessive and out of character to the local area.
- The removal of the hedge along Cinder Track would be damaging to the character of this open rural area.
- The proposed parking would be inadequate.

Twelve letters of objection have been received from local residents, summarised as follows:

- The Cinder Track is likely to be directly accessed by residents in the future
- The Cinder Track was never intended to be a street and the development may encourage occupiers to park on it.
- Would generate vehicles onto an already busy and narrow road especially at school times causing further congestion.
- The dwellings would be out of character with the area.
- The sewerage system is inadequate to cope with additional demand.
- Further noise and pollution and loss of privacy to neighbours.
- Loss of open green area together with hedge and trees.

Development Plan Policies

The relevant policies are:

RSS8: Policy 2, 3 and 4

Joint Structure Plan: Housing Policy 5 and Environment Policy 17

Local Plan: Housing Policy 5

Planning Considerations

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

- Whether harm would be caused to the character of the area
- Highway safety

Planning Assessment

The site is residential garden land and therefore falls within the definition of previously developed land and is within the village development boundary of Repton. The principle of development is therefore acceptable.

The character of Askew Grove and Milton Road in the vicinity of the site is composed of mainly post war detached and semi-detached housing of varying styles. Houses generally have large front and rear gardens. The top end of Askew Grove has a particular character of civic designed timber framed and ash felt and timber clad dwellings built soon after the Second World War.

The increased density is a departure from the prevailing lower density of housing in the area and the closer proximity of the housing blocks to the highway will create a greater sense of enclosure to the streetscene. The house style rather than being out of character only adds to an already diverse mix. The proposal makes good use of a corner site and provided good quality materials and attention to detail are achieved, then, whilst the development is different in appearance and density, it would be difficult to substantiate a case that it would cause demonstrable harm to the character of the streetscene.

The gable spans in the area, which generally determine the final bulk of a building, are a mix of 5, 6 and 7m. Following negotiation the gable spans of the proposed dwellings have been reduced from 9.5m to 8m for the most prominent buildings viewed from Askew Grove and Cinder Track and 8.5m for the remainder. The amendment would bring the scale and bulk of the buildings within the margins of acceptability for the area and is therefore satisfactory.

Members should be aware that the introduction of higher density terracing to the area will begin to change the character profile of Askew Grove when considering future development proposals.

The proposal complies with the space about dwelling guidelines as set down in the Council's SPG on Housing Design and Layout.

The Highway Authority has raised no highway safety issues and therefore the proposal would be acceptable on these grounds.

Severn Trent Water raises no objection subject to the provision of adequate foul and surface water drainage.

Direct access is not proposed to the Cinder Track and would be physically prevented by rail fencing.

The applicant has agreed to make the following contributions by way of a Section 106 Unilateral Undertaking:

- £5,772 towards local medical facilities;
- £18,562 towards local education provision;
- £13,000 towards the provision or improvement of public open space.

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

Provided no objections raising new issues are received and subject to a Section 106 Unilateral Undertaking to secure education, medical and open space contributions and any requirements of the Highway Authority, the Head of Planning Services be delegated authority to **GRANT** permission after expiry of the statutory consultation period subject to the following conditions:

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

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

2. This permission shall relate to the amended drawings, nos 06005.01 Rev D, 06005.02 Rev C, 06005.02A, 06005.03 Rev C and 06005.05 Rev B received on 4th May 2006.

Reason: In the interests of the appearance of the development and the character of the area.

3. No development shall commence on site in connection with this approval until samples of materials for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved samples.

Reason: To ensure appropriate materials are selected in the interests of safeguarding the appearance of the area.

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

5. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing

by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

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

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

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

8. No development shall commence on site in connection with this approval until details of drainage works for the disposal of both surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority and the dwellings shall not be occupied until the approved drainage has been carried out.

Reason: To ensure that the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

9. The barge boards to the roof verges and dormers and the exposed rafter feet shall not be finished in white but in a dark colour the details of which shall have been first submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on site in connection with this approval. The approved colour finish shall be applied before the dwelling to which it relates is first occupied.

Reason: To lessen the visual impact of the development in the streetscene in the interests of the appearance of the area.

10. All rainwater goods shall be in black.

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

11. No development shall commence on site in connection with this approval until details are submitted to and approved in writing by the Local Planning Authority showing the extent of overhang of the barge boards to the dormer windows and the development shall be constructed in accordance with the approved details.

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

12. The areas shown on the approved plan for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose

chippings) and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

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

Informatives:

In view of the fires that have occurred on site during the course of demolition the Council's Pollution Officer wishes to advise the applicant that a Site Investigation may be prudent in these areas to confirm the suitability of the land for residential development. Please contact Adam Spencer on 01283 595968 for further guidance.

16/05/2006

Item 1.3**Reg. No.** 9/2006/0216/U

Applicant:
 South Derbyshire District Council
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Agent:
 Rita McGoldrick - South Derbyshire
 District Council
 Civic Offices
 Civic Way
 Swadlincote
 Derbyshire
 DE11 0AH

Proposal: The part change of use from recreation/cricket ground to use as a burial site at The Playing Field Sutton Lane Etwall Derby

Ward: Etwall

Valid Date: 21/02/2006

This application is brought before Committee because the Council is the applicant

Site Description

The land lies in the south west corner of the current cricket ground and immediately to the north of the previous graveyard extension. The ground slopes down to the application site from the main playing area of the cricket ground. The site contains several trees and the ground has been recently cleared of shrubby plants.

Proposal

This is as described above and would if permitted add to the available land for burials arising in the Etwall area.

Applicants' supporting information

N/A

Planning History

None relevant to this part of the site that is relevant to the consideration of the application.

Responses to Consultations

Etwall Parish Council has no comment.

Sport England has no objection, as this part of the site is not capable of forming or forming part of the playing pitch.

The Environmental Protection Manager comments that there is unlikely to be any contamination of the land.

Responses to Publicity

N/A

Development Plan Policies

The relevant policies are:

RSS8: None

Joint Structure Plan: None

Local Plan: Community Facilities Policy 1.

Planning Considerations

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

- The impact on neighbours
- Access
- Loss of part of the cricket arena.

Planning Assessment

The proposed extension of the graveyard would not directly affect any of the occupiers of the local dwellings. Access to the extended area would be as for the existing area and no additional traffic would be generated by the proposal.

Part of the cricket grounds would be lost but the area that is proposed is not capable of forming a meaningful part of the cricket ground. At the west boundary there is a difference in ground levels of about a metre, with the land sloping quite quickly to this boundary.

No details of the boundary treatment have been submitted so a condition requiring these details to be submitted is recommended.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

16/05/2006

Item 1.4**Reg. No.** 9/2006/0281/FH**Applicant:**

Lakhvinder Singh Pabla
8 Kirkland Way
Stenson Fields
Derby
DE24 3HA

Agent:

M J Harrison
7 Hall Park
Barrow On Trent
Derby
Derbyshire
DE73 1HD

Proposal: The erection of an extension at 8 Kirkland Way
Stenson Fields Derby

Ward: Stenson

Valid Date: 10/03/2006

This application is brought before Committee because the applicant is a Member of the Council.

Site Description

The application site is a detached residential property off Grampian Way in Stenson Fields.

Proposal

To erect a first floor extension above the current attached single storey garage.

Planning History

This application is the first that has been submitted for this address and there appears to have been no other development at the site.

Responses to Consultations

None received.

Development Plan Policies

The relevant policies are:

RSS8: N/A

Joint Structure Plan: N/A

Local Plan: Housing Policy 13

Planning Considerations

The main issue central to the determination of this application is the effect that the extension may have on neighbouring properties.

Planning Assessment

The proposal conforms with Supplementary Planning Guidance and HP13 of the Local Plan.

The proposed extension is of an acceptable design and size in relation to the existing property & does not compromise the amenities of neighbouring dwellings.

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

Recommendation

GRANT permission subject to the following conditions:.

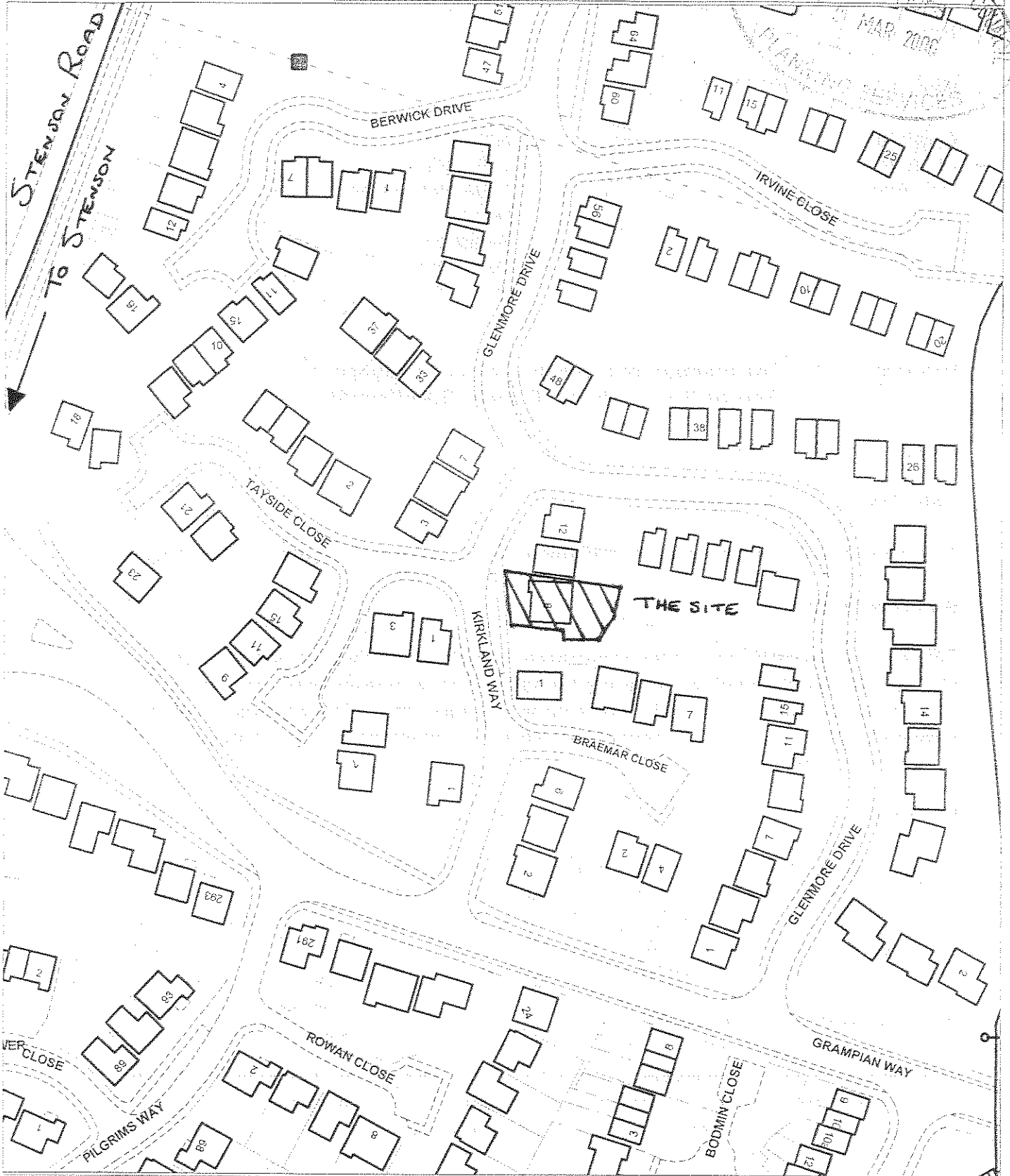
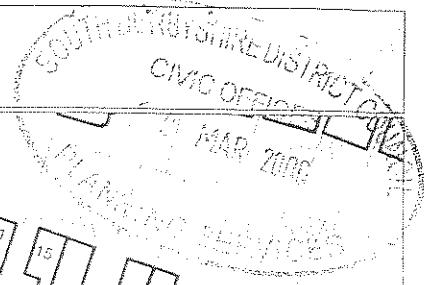
1. The development permitted shall be begun before the expiration of three years from the date of this permission.

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

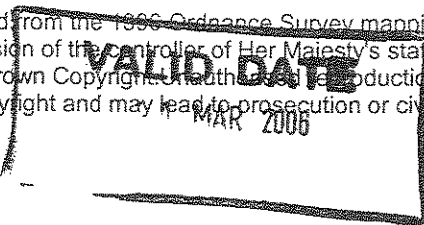
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

8 Kirkland Way, STENSON FIELDS



Reproduced from the 1986 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office (c) Crown Copyright. No other use or production infringes Crown Copyright and may lead to prosecution or civil proceedings.



Scale 1:1250 Date Plotted 13/12/2005

Plot centred at 433645 331351



8 Kirkland Way

2006 / 0281

16/05/2006

Item 1.5**Reg. No.** 9/2006/0348/F**Applicant:**
Me M Ireland
C/O Agent**Agent:**
C A Collins
119A High Street
Newhall
Swadlicote
Derbyshire
DE11 OHR**Proposal:** The erection of a dwelling on Land Adjacent To 67
George Street Church Gresley Swadlincote**Ward:** Gresley**Valid Date:** 23/03/2006

This application is brought before Committee at the request of Councillor Southerd.

Site Description

This site was formerly part of the rear garden to number 67 George Street. It has already been cleared and work on the foundations for a dwelling has commenced. To three sides the site is enclosed by fencing and trees/shrubs. The boundary with the remaining garden for 67 is currently open save for a mesh barrier that defines the line of separation for the new plot.

Proposal

It is proposed to erect a two storey dwelling with an attached single garage. The new building would be sited partly to the side of but also behind the rear wall of the existing house, number 67. The dwelling would have a lounge/diner, kitchen, bedroom with en-suite and toilet on the ground floor. Two further bedrooms and a bathroom would be located on the first floor which is accommodated within the roof space.

Planning History and Background

In November 2004 an application (9/2004/1279) for a single two storey dwelling in the grounds of number 67 was refused because of a shortfall in the distances between the two storey part of the development and existing dwellings on Hall Street. In February 2005 planning permission (9/2004/1615) was granted for a dwelling of the same design but which being located differently within the site met the separation distances and thus removed the reasons for the earlier refusal.

On 17 November 2005 it came to the Council's attention that the site was being cleared but conditions imposed on the permission granted under 9/2004/1615 concerning the

submission of materials and details of levels were outstanding. The details were submitted and the complaint file was closed on 16 December 2005. On 6 February 2006 the Council received a complaint that the dwelling was not being constructed in accordance with the approved drawings. Investigation revealed that the relationship of the proposed dwelling with 67 George Street was not in accordance with the approved drawings and the foundations had been laid approximately 3m forward of the approved position.

The applicant (who we understand is the new owner) has offered apologies for the error which he says has arisen as a result of him being given a copy of plans for the original application that was refused. Once the error was drawn to his attention he immediately stopped work. The current application incorporates a redesign of the building so that minimum distances of separation are met whilst utilising the foundations that have already been laid.

Responses to Consultations

There is no issue in principle from a highways point of view and the County Highways Authority is satisfied with the scheme subject to an amended plan that incorporates the visibility splay within the application site (i.e. within the red line) and to conditions. An amended plan has been received that deals with the visibility splays. The Pollution Control Officer does not require a site investigation.

Responses to Publicity

Two letters have been received. They raise the following objections:

- Serious loss of light
- Significant loss of privacy
- Overbearance due to the size, position and design
- Increased noise and disturbance
- The proposal does not comply with the Council's Space about Dwellings standards as it is too close to 1, 3 and 5 Hall Street which was one of the reasons for the previous refusal
- Significant loss of amenity
- Contravention of legal right to light
- The adjacent properties are not shown on the drawings and if a decision is made on this basis it would amount to maladministration.
- Complaint about previous failure to notify appropriate neighbours
- Loss of value to all three affected dwellings
- All three neighbours object
- The building error should be handled as such

Development Plan Policies

The relevant policies are:

RSS8: P2

Joint Structure Plan: H3, T4

Local Plan: H4, H11, T6

Planning Considerations

The main issues central to the determination of this application are protection of amenity for neighbours and the design of the building.

Planning Assessment

Amenity

The Council's guidelines for space about dwellings states that between lounge/dining rooms of existing houses and a blank two storey wall of a new dwelling there should be a minimum distance of separation of 12 metres. The submitted plans indicate that this distance is achieved insofar as the proposal relates to the properties on Hall Street and this distance of separation does not differ from the approved plans.

With regard to the relationship with number 67, the new dwelling has been redesigned so that there would be roof lights only at first floor level facing number 67. These serve a bathroom and the landing and could therefore be obscure glazed. As to overbearance the part of the new dwelling that would exceed 5m in height (i.e. two storeys high) would be some 12.5m from the rear of the existing house and would therefore meet the minimum distance for separation.

Design

The redesign of the proposal has resulted in a two storey building with the first floor rooms within the roof space. In overall terms the height of the proposed structure at approximately 7.3m would be lower than a conventional two storey dwelling that would be expected to be around 8m high. As to the design, it is considered that the current proposal is an improvement on the design of the previously permitted dwelling as that included an awkward roof arrangement when viewed from the side and rear.

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

That subject to receipt of an amended plan that includes the visibility splay within the application site (i.e. red line) and service of the appropriate notice on the owner **GRANT** permission subject to the inclusion of a condition referring to the said amended plan and the following conditions:

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

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

2. The development hereby permitted shall be constructed using Terca Cassandra bricks and Marley Plain Smooth Grey roofing tiles unless alternative materials have been agreed in writing by the Local Planning Authority before work commences.

Reason: In the interest of the character and visual amenity of the area.

3. The development hereby permitted shall have a finished floor level no greater than 250mm above the finished floor level of 67 George Street unless otherwise approved in writing by the Local Planning Authority.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), prior to first occupation of the development hereby permitted a 1.8m high fence shall be provided along the boundary between the application site and 67 George Street. The fence shall comprise 1.5m close boarded fencing topped with 300mm shaped trellis unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the amenity of the occupiers of 67 George Street.

5. Prior to the first occupation of the dwelling hereby permitted the existing pillar between the application site and 67 George Street shall be removed or reduced so as not to exceed 1m in height relative to road level.

Reason: In the interests of highway safety.

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

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

7. Any gates shall be set back at least 5m from the highway boundary and shall be designed so as to open inwards only.

Reason: In the interests of highway safety.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered (including the insertion of new windows), enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

9. The roof lights in the front elevation of the building shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

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

9/2006/0348/F Land adj to 67 George St
Church Gresley



Reproduced from the 1996 Ordnance Survey mapping with the permission of the controller of Her Majesty's stationary office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Scale 1:1250 Date Plotted 4/5/2006

Plot centred at 429163 318564

9/2006/0348/F Land adj to 67 George St
Church Gresley



16/05/2006

Item 1.6**Reg. No.** 9/2006/0354/F**Applicant:**
Mr Mrs N Rooney
C/O Agent**Agent:**
Philip Billham Planning & Design
Old School Lodge
Aston On Trent
Derbyshire
DE72 2AF**Proposal:** The erection of a dwelling in substitution for that approved under planning permission 9/2005/0881/F at Land to the North of Cropper House Cropper Lane Sutton-on-the-Hill Ashbourne**Ward:** North West**Valid Date:** 29/03/2006

The application is brought before Committee at the request of Councillor Bale

Site Description

The site is within the curtilage of a detached dwelling, which is located in the open countryside. The site is located in a prominent position on the corner of two roads and mature hedgerows mark the roadside boundaries to the site.

Proposal

The application is for a detached brick and tile dwelling as a replacement for a single storey property, which has recently been demolished. Planning permission was granted for a replacement dwelling on the site in October 2005 and therefore this submission is for a change of house type to that previously approved.

Planning History

9/2005/0472/F – Demolition of existing house and outbuildings and the erection of a replacement house/ garage – Refused

9/2005/0881/F – Erection of an integral garage and erection of a replacement dwelling – Approved

9/2006/0016/F – Erection of a dwelling in substitute for the dwelling approved under 9/2005/0881/F – Withdrawn

Responses to Consultations

County Highway Authority – no objection.

Environment Agency – no objection subject to a condition requiring the submission and approval of a scheme for the provision of acceptable foul drainage works.

Responses to Publicity

Three letters of representation have been received raising the following issues:-

- The lane is unsuitable for additional use, the adjoining farm requires access at all times and greater use of the lane would bring disruption to farming operations. The junction of the access lane with Cropper Lane is dangerous and in recent years there have been an increasing number of accidents here. The new dwelling should be accessed from the existing access used by Cropper House onto Cropper Lane. The side gate, which it is proposed to use, has rarely been used as a vehicular access to the property. The no through road serves three farms, which use large vehicles, and when they meet another vehicle using the lane they are often forced to reverse back onto Cropper Lane due to a lack of manoeuvring space, this is detrimental to highway safety.
- The infrastructure in the area is already overloaded, the lanes, water supply, lack of mains drainage, overhead cables etc are not designed for additional domestic use and the ditch alongside Cropper Lane is already used by some residents as an 'overflow' for their septic tanks. There are significant problems with foul drainage in the area.
- Affordable homes are needed in the countryside not an executive 4 bed house which would be better suited to an urban/ suburban location. The buildings would overlook the adjoining farm and this may result in complaints from future occupiers about the noise from livestock.
- Planning regulations should protect the countryside and agricultural land usage and not allow a further development turning Sutton-on-the Hill into a suburb.
- A dwelling of these proportions would blight Cropper Top which is a local landmark and clearly visible from a significant distance away.
- A property of this design and stature is not in keeping with this location and environment. The proposed dwelling is disproportionate to the size of the plot and is out of keeping with the surrounding properties. The only justifiable development would be a like for like replacement of the original single storey dwelling. The proposed dwelling far exceeds the curtilage of the original footprint of the demolished building and viewed together with the extension to Cropper House constitutes a highly obtrusive and large development in a rural area. The development will present an appearance of a cramped, overdeveloped site instead of a 'green corner' on a pretty, country lane.
- The application contains no provision for garaging and in view of the scale of the proposed dwelling it is likely that in the future a further building will be proposed for this purpose, leading to heavy overdevelopment of the site.

Development Plan Policies

The relevant policies are:

RSS8: None

Joint Structure Plan: None

Local Plan: Housing Policy 8

Planning Considerations

The main issues central to the determination of this application are the differences in scale and design between the current application and the previously approved scheme.

Planning Assessment

A replacement for the single storey dwelling, which was located on the site, was granted permission in 2005. The principle of a replacement dwelling in this location has therefore been accepted previously. The proposed dwelling has the same size footprint as the dwelling approved on the site in 2005 but it has been re-orientated slightly so that the front elevation has been moved a few degrees to the southeast. The re-orientation has the effect of moving the dwelling so that less of the footprint is on the site of the original dwelling than the previously approved scheme. However this alteration in alignment is considered insignificant and will not result in a greater impact on the openness of the countryside than the previously approved scheme.

The overall size and height of the proposed dwelling have not been increased from the previously approved scheme. The main differences between the two submissions are the fact that the integral double garage has been deleted, the entrance porches have been increased in size and the window details have been changed. There is sufficient curtilage around the dwelling to accommodate parking space. The porch details are considered acceptable and following the receipt of amended plans simplifying the window details to ensure the dwelling has a less suburban appearance the design of the dwelling is considered acceptable.

The access for the proposed dwelling is as previously approved and the highway authority has no objections to the scheme. The Environment Agency has requested a condition requiring the submission of a scheme for foul drainage works to ensure that a suitable drainage solution is installed for the proposed dwelling.

Recommendation

GRANT permission subject to the following conditions:

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

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

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

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

3. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the 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, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

4. Before development is commenced details of a manoeuvring area sufficient to allow vehicles to enter and leave the curtilage of the dwelling in a forward gear shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the dwelling and shall thereafter be maintained available for its designated purpose.

Reason: In the interests of highway safety.

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

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

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

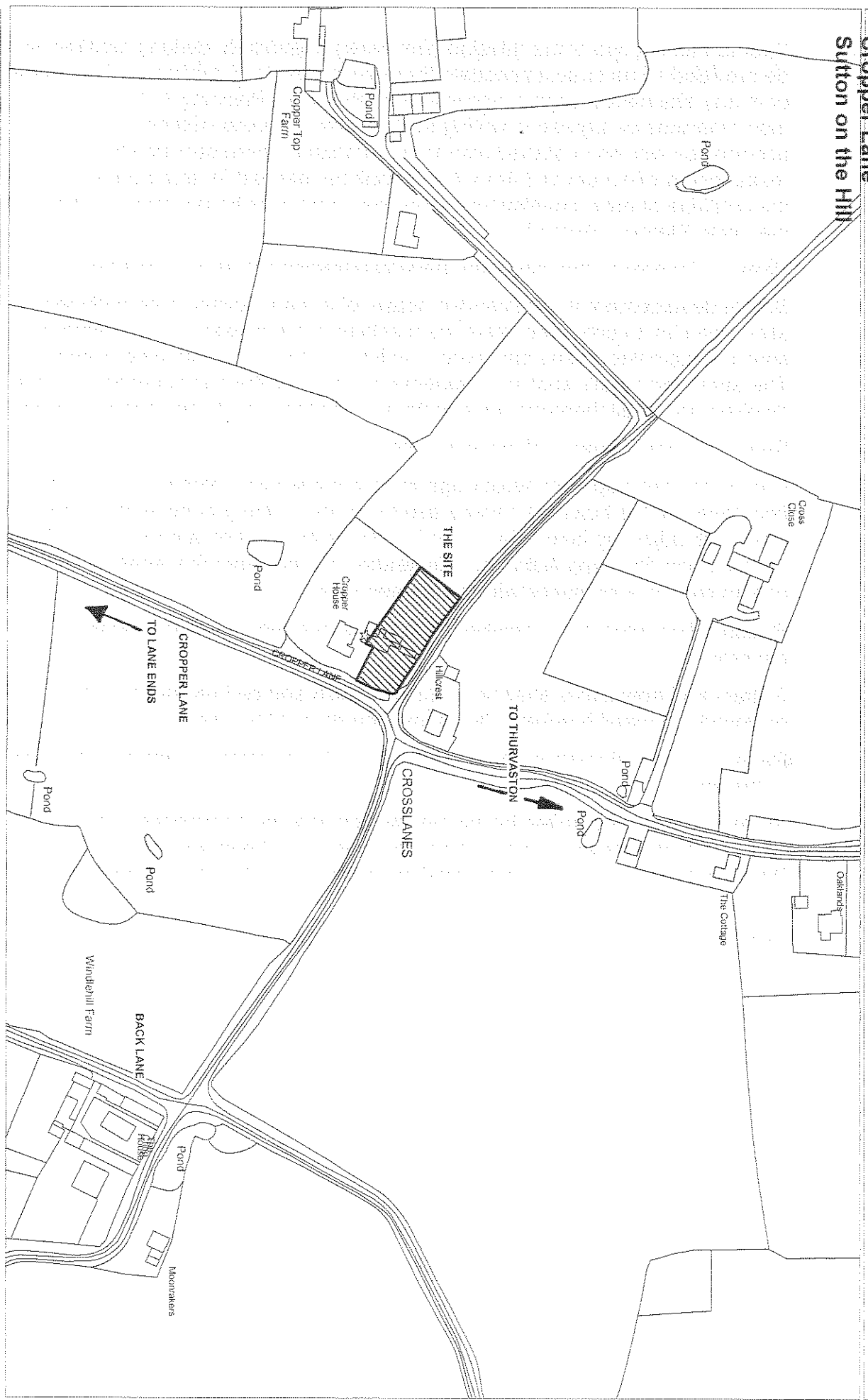
Reason: In the interests of the appearance of the building(s), and the character of the area.

7. No development approved by this permission shall be commenced until a scheme for the provision of foul drainage works has been approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: To prevent pollution of the water environment.

9/2006/0354/F Land to north of Cropper House

Cropper Lane
Sutton on the Hill



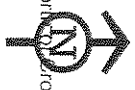
Reproduced from the 1996 Ordnance Survey mapping with the permission of the controller of Her Majesty's stationary office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Scale 1:2500

Plot centred at 424029 336339

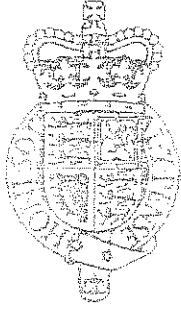
Date Plotted 4/5/2006

9/2006/0354/F Land to north of Cropper House
Cropper Lane
Sutton on the Hill



2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result
9/2005/0543	Egginton Hall, Egginton	Etwall	Dismissed
9/2005/1037	109 Swadlincote Road	Woodville	Allowed
9/2004/1587	Land at 43 Woodville Road	Hartshorne & Ticknall	Dismissed
9/2004/0280	Woodland Road, Stanton	Stanton & Newhall	Dismissed
9/2005/0519	Land at Aston Lane, Shardlow	Aston	Dismissed
9/2005/0481	81 Main Street, Linton	Linton	Dismissed



Appeal Decision

Site visit made on 21 March 2006

by **R W Moon BSc MCD MRTPI**

an Inspector appointed by the First Secretary of State

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

Date

19 APR 2006

Appeal Ref: APP/F1040/A/05/1195234

Eggington Hall, Eggington, Derby, DE65 6HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs K Ellis against the decision of South Derbyshire District Council.
- The application (Ref 9/2005/0543/U), dated 27 April 2005, was refused by notice dated 13 July 2005.
- The development proposed is the conversion of plant room to residential use.

Decision

1. The appeal is dismissed.

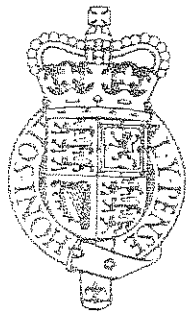
Reasons

2. The appeal building is a wartime structure with a flat roof and substantial brick walls which formerly housed generators. It has limited openings and is situated close to the access road to Eggington Hall where supervision of the entrance would be assured. Eggington Hall comprises a substantial group of buildings in single family occupation set in large grounds including woodland which is outside the limits of the village of Eggington. The proposal would transform the appearance of the building by the provision of a pitched roof and the introduction of more openings for windows and doorways. Being outside the village limits it is in an area which is subject to national and local policies designed to protect the countryside from development which does not require a countryside location.
3. The impact of the proposed conversion on the wider area would be limited due to its setting amongst trees and other buildings. However, its development would be inconsistent with the objectives of Housing Policy 6 of the Derby and Derbyshire Structure Plan (2001) and Environment Policy 1 and Housing Policy 8 of the South Derbyshire Local Plan (1998) in that it is unnecessary for a rural based activity. *Planning Policy Statement: Sustainable Development in Rural area (PPS7)* also states that new building development in the open countryside away from existing settlements, or outside the area allocated for development in development plans, should be strictly controlled.
4. I have considered all the other matters raised including the concerns of the appellants regarding their own personal safety and that of other family members when they are not present. However, these circumstances would be of concern to many residents in the countryside. No support for this argument has been given by the responsible police force. I also note that staff located here could reduce the need for transport and the unsubstantiated claim that Eggington Hall is a rural based enterprise. In my mind none of these matters

outweigh the harm that would be caused to the established policies to protect the countryside from unnecessary development.

R. W. Moon

INSPECTOR



Appeal Decision

Site visit made on 21 March 2006

by **R W Moon BSc MCD MRTPI**

an Inspector appointed by the First Secretary of State

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

Date

20 APR 2006

Appeal Ref: APP/F1040/A/05/1194620

109, Swadlincote Road, Woodville, Derbyshire

- 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 Fitzpatrick Cruise Ltd against the decision of South Derbyshire District Council.
- The application (Ref 9/2005/1037/F), dated 12 August 2005, was refused by notice dated 26 October 2005.
- The development proposed is the construction of a detached dwelling.

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

Main Issue

1. I consider the main issue in this case to be the consequences of the proposal for highway safety and the free flow of traffic on Swadlincote Road.

Planning Policy

2. The development plan for the area includes the Derby and Derbyshire Joint Structure Plan (2001) (SP) and the South Derbyshire Local Plan (1998) (LP). SP Transport Policy 4 and LP Transport Policy 6 both have similar objectives of achieving adequate provision for access, parking, manoeuvring and off street servicing.

Reasons

3. Planning permission was granted in 2005 for the erection of 5 dwellings to the rear of the proposed appeal site. These houses were under construction at the time of my site visit. The access, about 4.1 metres wide, to this development is situated towards the western part of the appeal site within a gap of over 9 metres between the remaining terraced buildings on each side. Swadlincote Road (A514) is a busy through road with unrestricted parking on both sides of the road near the appeal site. Vehicles were parked on the wide footway opposite, clear of the carriageway to allow the 2-way flow of traffic. At the time of my visit there were several gaps for parking along both sides of the road. At this point the highway was not particularly narrow.
4. In granting permission for the erection of 5 dwellings, a restricted area for the turning of service vehicles was permitted. *Residential Roads and Footpaths: Design Bulletin 32* states that fire appliances and most large service vehicles need a headroom of more than 4.0 metres to gain access through an archway or bridge. The design headroom for the proposed

development is stated to be 3.45 metres but the access road is on a slope. Only small service vehicles could therefore access the site to the rear.

5. Given the limited turning space in the existing permitted scheme, it is inevitable that the larger service vehicles would park in Swadlincote Road regardless of the proposed development taking place. This would apply to all neighbouring houses too. However, such events would be infrequent and would be most likely to occur during the weekday daytime when there would be more spaces available. Consequently, I do not consider that there would be significant harm to highway safety or the free flow of traffic.
6. I have taken into consideration the concerns about increased traffic levels on Swadlincote Road and congestion at the Woodville roundabout to the east. Traffic levels are rising nationally and the additional traffic movements generated by the proposed development and the infrequent attendance of larger vehicles at the site would not cause a material difference to these conditions. I attach considerable weight to the fact that no objection has been raised by the responsible Highway Authority. I consider that there would be townscape advantages in providing continuity to this part of the street scene by sealing the rather awkward gap in the development on this side of Swadlincote Road which would remain were this appeal to be dismissed. This also adds some weight to my decision to allow this appeal.

Conditions

7. The Council has recommended the imposition of 8 conditions in addition to the standard time condition. I agree that conditions are necessary to control materials (2), to prevent obstruction within the sightlines at the access onto Swadlincote Road (7), and the prior completion of garaging and parking space (8), subject to minor rewording. However, I consider the remaining reasons are unnecessary. Condition (4) regarding site offices etc is provided for under the existing permission as is the width of the access road (5) and the closure of the Bernard Street access (6). I see no need for the drainage condition (9) given the location of the site as an extension of a scheme already under construction.

Conclusions

8. I conclude that there would be no harm to highway safety or the free flow of traffic on Swadlincote Road and that the proposal would conform with the objectives of SP Transport Policy 4 and LP Transport Policy 6.

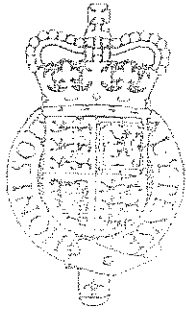
Formal Decision

9. I allow the appeal and grant planning permission for the construction of a detached dwelling at 109, Swadlincote Road, Woodville, Derbyshire in accordance with the terms of the application (Ref 9/2005/1037/F), dated 12 August 2005, and the plans submitted therewith, subject to the following conditions:
 - 1) the development hereby permitted shall be begun before the expiration of five years from the date of this decision
 - 2) no development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details

- 3) the entire site frontage shall be permanently maintained free of any obstructions exceeding 600mm in height for a distance of 2m from the highway boundary. The parking of vehicles shall be prevented by physical means in accordance with a scheme first submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to the first occupation of the dwelling hereby permitted and retained thereafter
- 4) the garaging, car parking and manoeuvring facilities shall be provided prior to the first occupation of the dwelling hereby permitted and thereafter retained free from any impediment to their designated use in perpetuity.

Rwmoon

INSPECTOR



Appeal Decision

Site visit made on 21 March 2006

by R W Moon BSc MCD MRTPI

an Inspector appointed by the First Secretary of State

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

Date: 24 April 2006

Appeal Ref: APP/F1040/A/05/2005123

Land at 43 Woodville Road, Hartshorne, Derbyshire, DE11 7ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mrs J L Hinde against the decision of South Derbyshire District Council.
- The application (Ref 9/2004/1587/O), dated 6 December 2004, was refused by notice dated 13 June 2005.
- The development proposed is residential development.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The application was submitted in outline with all matters reserved for future approval of the Council. Two sketches of possible layouts for the development of 3 detached houses were submitted, both of which would be accommodated within the red line shown on the application plan. The exact details of the boundary between the proposed development and the rear garden of No.43 on both plans is left somewhat vague. Although these plans do not specifically mention that they are illustrative plans only I propose to consider them as such, indicating a development of 2 or 3 additional dwellings. The plans show the siting in brown of a new house to the north east of No.43 within the area of land owned by the appellant but this is not part of the current proposal.

Main Issue

2. I consider the main issue in this case to be the consequences of the proposal for highway safety and the free flow of traffic on Woodville Road.

Planning Policy

3. The development plan for the area includes the Derby and Derbyshire Joint Structure Plan, adopted in 2001 (SP) and the South Derbyshire Local Plan, adopted in 1998 (LP). I consider SP Transport Policy 4 and LP Transport Policy 6 are the most relevant policies. SP Transport Policy 4 requires new development to make provision for safe and convenient access while LP Transport Policy 6 indicates that planning permission will not be granted for development which interferes with the free and safe flow of traffic.

Reasons

4. Woodville Road is a principal road between Derby to the north and Swadlincote to the south. Outside the appeal site this road is subject to a 40mph speed limit. The proposed access is on the inside of a gradual bend in this road which would prevent the achievement of full visibility splays of 2 metres x 120 metres even with the use of part of the frontage garden area of No. 43. I observed the behaviour of traffic near to the site during my site visit. Travelling in a stream of traffic towards Derby few of the vehicles ahead appeared to slow down on the approach to
-

Hartshorne where a 30mph restriction begins about 50 metres to the north of the site. Travelling in the opposite direction down the hill traffic appeared to speed up in anticipation of a higher speed restriction. However, no speed survey results have been provided.

5. At best, the appellant is capable of providing a visibility splay to the north east of 90 metres but to the south west, only 61 metres. This latter figure is about half of the required guidance figure. Even to the centre line of the carriageway, the best that can be achieved would be 93 metres. This would be in the direction from which vehicles would be approaching Hartshorne at higher speeds. Sightlines should never be reduced to a level where danger is likely to be caused. Although both sightlines are substandard, there would be particular danger for drivers emerging from the access when vehicles travelling in a north easterly direction were overtaking parked or slower vehicles on the north western side of Woodville Road. I noted the presence of parked cars on the highway opposite and on the same side as the appeal site during my site visit. *Design Bulletin 32* states that the objective for the priority road where it is heavily trafficked, such as a local distributor, is to avoid the need for through traffic to change course, slow down or stop. I consider this objective would be compromised by the proposed development.
6. I have taken into account the fact that planning permission was granted for a single dwelling in 1998 using access at this point. However that decision, and the Council's decision not to object on highway grounds, was for only one dwelling and was granted at a time when traffic volumes and generation were less. I have also taken into account the fact that there is no dispute between the parties about the acceptability of developing housing in principle within Hartshorne or with the details of particular layouts shown and that the site is previously developed land in terms defined within *Planning Policy Guidance: Housing (PPG3)*.

Other Considerations

7. I have taken note of the concerns of local residents about potential overlooking, tree root damage and flood risk but these have not affected my conclusions on the main issue.

Conclusions

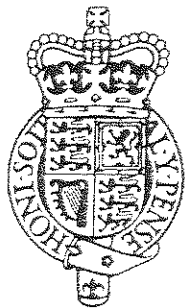
8. I have taken note of the fact that the poorer visibility is to the less critical south west but I remain of the view that the proposed access would pose serious risks for drivers involved on the highway and those emerging from the proposed development due to the significantly sub-standard sightlines. Consequently, I regard the proposed development would have a harmful effect with consequences for highway safety and the free flow of traffic on Woodville Road in conflict with the objectives of SP Transport Policy 4 and LP Transport Policy 6. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

9. I dismiss the appeal.

Rw moon .

INSPECTOR



Appeal Decision

Hearing and site visit held on 1 March 2006

by **Timothy S. A. Belcher LLB (Hons) Solicitor (Non-Practising)**
an Inspector appointed by the First Secretary of State

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

Date

28 APR 2006

Appeal Ref: APP/F1040/A/05/1176998

Woodland Road, Stanton, Burton-on-Trent, DE15 9TH

- 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 Morris Homes (East Midlands) Limited & Fryett's Fabrics Limited against the decision of South Derbyshire District Council.
- The application Ref 9/2004/0280/M, dated 27 February 2004, was refused by notice dated 21 December 2004.
- The development proposed is the erection of 51 No. houses, garages, roads and sewers (2.9 acres approx).

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. During the course of the Council's processing of the application the number of dwellings reduced from 51 to 48.
2. The Unilateral Undertaking¹ makes provision for on-site Public Open Space, a financial contribution towards off-site woodland planting, a financial contribution towards off-site youth and adult play facilities, a financial contribution towards healthcare facilities, the provision of affordable housing within the site and a financial contribution towards education. The Council have raised concerns regarding certain aspects of the wording of the Unilateral Undertaking². I have had regard to these concerns and considered the response from the appellants³. Whilst there is some merit in the Council's comments they do not identify fundamental flaws in the Undertaking and there are no reasons to conclude that the objectives set out in that Undertaking would not be satisfactorily achieved.

Main Issues

3. I consider the main issues in this case are:
 - whether the proposed redevelopment of the site is sustainable and necessary under the sequential approach to the provision of the housing in this part of the Council's area, and
 - whether it has been demonstrated that the site is no longer needed for employment purposes or that the present use of the site causes significant harm to residential amenity.

¹ Document 13

² Document 14

³ Document 15

Planning Policy

The development plan

4. The site is previously developed land as defined in Planning Policy Guidance Note 3: "Housing" (PPG 3). Therefore, its reuse for housing would comply with national and county policies of reusing previously developed land in preference to green field sites.
5. The development plan for the area includes the Regional Spatial Strategy for The East Midlands (RSS 8), the Derby and Derbyshire Joint Structure Plan adopted in 2001 and the South Derbyshire Local Plan adopted in 1998. Both the Structure Plan and the Local Plan were adopted prior to the publication of PPG 3. The site is outside the urban area of Swadlincote as defined in the Local Plan. I have been referred to RSS 8 Policies 1, 2 and 3, Structure Plan General Development Policies 1, 2, 3, 4, Housing Policies 3, 6, Economy Policy 1 and paragraph 4.92 and Local Plan Housing Policies 4 and 8 and Environmental Policy 1. The relevant parts of the Development Plan explain that underpinning RSS 8 and at the heart of the strategy is the sequential approach to the location of new development. In order to ensure the most sustainable mix of locations within, adjoining and outside urban areas a sequential approach to the selection of land for development should be adopted in Development Plans in accordance with a defined priority. The appellants accept that the site is not within an urban area. Accordingly, the site does not fall within the top two priority areas specified in Policy 2 of RSS 8. However, they assert that the site is within a location adjoining an urban area which is well served by public transport (the third priority area). If they are wrong about that they claim that the site is still in a suitable location which is well served by public transport (the fourth priority area).
6. The Structure Plan explains that new development should respect the principles of sustainable development by contributing to the provision of opportunities for minimising the overall need to travel by ensuring convenient access between homes, jobs and services and encouraging the increased use of public transport by development in locations well served by the public transport network. New development will be located within or well related to settlements, make good use of existing or potential infrastructure particularly where this would enable a choice of travel mode and favour the use of public and non-motorised transport. As much of the housing provision as possible will be made within urban areas. New housing in areas away from existing settlements will only be permitted in specified circumstances. The appellants do not accept that the site is located away from a settlement. However, they accept that none of the exceptions set out in Housing Policy 6 apply in this case.
7. There will be a need to resist proposals which would result in the loss of business land to other uses such as housing except where the continued business use is considered to be incompatible with adjacent uses for reasons including noise or traffic generation. Accordingly, development which would lead to a reduction in the supply of business land and buildings will only be permitted where the development would not lead to a qualitative or quantitative deficiency of land for such uses in the sub-area or the current use is incompatible with existing adjacent uses.
8. The Local Plan explains that residential development within or on the fringes of the built-up area of Swadlincote as defined on the Proposals Map will be permitted provided that the site is substantially surrounded by development. Housing outside settlements will only be

permitted in specified circumstances. The appellants agree that none of those circumstances apply in this case.

The emerging Local Plan

9. The Council commenced, progressed and has now withdrawn a review of the Local Plan. The Local Plan Review had reached an advanced stage towards its formal adoption. The Inspector's Report into objections lodged against the Local Plan Review had been received by the Council. In the Council's formal Planning Policy Position Statement dated 11 August 2005 they state that they may have regard to the Inspector's Report in determining planning applications. There is currently a planning application before the Council to redevelop the site for housing (43 dwellings). The Council confirmed that they would not be relying in the Inspector's Report as a material consideration in the determination of that application. In the light of the Council's position I do not consider that I should have regard to the Local Plan Review in the determination of this appeal.

Government Advice

10. I have also been referred to advice in Planning Policy Statement 1: "*Delivering Sustainable Development*" (PPS 1), PPG 3, Planning Policy Guidance Note 4 "*Industrial and Commercial Development and Small Firms*", Planning Policy Guidance Note 13: "*Transport*" and the statement of the Minister of State for Housing and Planning made on the 17 July 2003.
11. PPS 1 explains that Councils should bring forward sufficient land in appropriate locations to meet the expected needs for housing taking into account issues such as accessibility. Further, they should provide improved access for all to jobs, health, education, shops, leisure, community facilities, open space, sport and recreation by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car.
12. PPG 3 explains that the Government is committed to promoting more sustainable patterns of development by concentrating most additional housing development within urban areas; adopting a sequential approach to the allocation of land for housing and managing the release of land. In identifying sites to be allocated for housing in local plans, Councils should follow a search sequence, starting with the re-use of previously developed land and buildings within urban areas identified by an urban housing capacity study, then urban extensions, and finally new development around nodes in good public transport corridors. Councils should seek only to identify sufficient land to meet the housing requirements set out as a result of the Regional Spatial Strategy and strategic planning processes. In doing so they do not need to consider all the land in their area. They should not extend the search further than required to provide sufficient capacity to meet the agreed housing requirement.
13. Councils should consider favourably planning applications for housing which concern redundant land or buildings in commercial use but which are no longer needed for such use unless the proposal fails to reflect other policies in PPG 3, particularly those relating to the site's suitability for development or where the proposal would undermine the planning for housing strategy set out in the development plan (where this is up-to-date), in particular if it would lead to the overprovision of new housing and this would exacerbate the problems of, or lead to, low demand or it can be demonstrated that the site's development for housing would undermine regional and local strategies for economic development and regeneration.

Reasons

Is the proposed redevelopment of the site sustainable? Is its redevelopment necessary under the sequential approach to the provision of the housing?

14. The site is located on the opposite side of Woodlands Road (A444) to 18 dwellings (Nos. 9 to 43) and The Gate Inn (a public house). It fronts onto Woodlands Road and is surrounded on its other three sides by land and buildings within the Green Belt. The site is located some distance from the boundary of Swadlincote as defined in the Local Plan. Further, the boundary of Swadlincote nearest to the site is on the opposite side of Woodlands Road, which is itself a busy highway that links Burton Upon Trent to the M42. I am aware that part of Swadlincote's urban area straddles the A444 but this occurs a considerable distance from the site. Due to the physical separation between the site and defined boundary to Swadlincote and the intervening road I do not consider that the site can be described as adjoining an urban area.
15. I am aware that the urban edge of Swadlincote is likely to move closer to the site when the comprehensive development of the intervening employment site known as Tetron Point has been completed. However, there will still be some distance separating the site and Tetron Point as well as Woodlands Road itself.
16. For the same reasons explained above I do not consider that the site can be described as being on the fringes of the built up area of Swadlincote. Even if I am wrong in that assessment, the Local Plan requires the site to be substantially surrounded by development if it is to be redeveloped for residential development. I accept that there is development along two sides of the site but the greater area surrounding the site is open countryside. Accordingly, I find that the proposal would be contrary to the relevant policies of the Local Plan.
17. The site is within distances specified in PPG 13 whereby people living at the site could cycle to educational, employment, leisure, shopping and other facilities and some of these destinations are also within walking distances mentioned in PPG 13. However, pedestrians and cyclists would have to use the A444 which is a busy road carrying a substantial amount of traffic, including HGVs. As regards pedestrians I do not consider that the A444 is an enjoyable road to walk along due to the noise, speed and levels of traffic, including HGVs, using it. There is a cycle lane marked on the carriageway near the site but, in my assessment, many cyclists would be reticent about using this road, for the reasons explained above, and it is highly unlikely that parents would allow their children to cycle along it.
18. I have also had regard to the level of public transport that would be available for future residents of the site. The nearest urban area to the site is Swadlincote. There are no buses that run along that part of Woodlands Road adjacent to the site which go into the town centre. There are bus stops within several hundred metres of the site from which buses can be caught into Swadlincote which provide a reasonable level of service. However, I consider that the combination of the levels of traffic using Woodlands Road and the distance from the site to the bus stops would mean that future residents of the dwellings would be unlikely to use public transport as an alternative to the private car. For the same reasons I conclude that the site is not well served by public transport. Accordingly, the proposal does not accord with the locational strategy set out in RSS 8 or the policies relating to the principles of sustainable development set out in the Structure Plan. Further,

the proposal would be contrary to the Government's aims set out in PPG 13 of promoting accessibility to jobs, shopping, leisure facilities and services by public transport and reducing the need to travel, especially by car. For all of the reasons explained above I consider that the proposal would be contrary to the relevant policies for new residential development as set out in the development plan.

19. The Council have explained that as at 31 March 2005, within the Swadlincote Sub-Area there is a predicted oversupply of housing up until 2011 of 329 dwellings. Further, there is sufficient land available to accommodate over five years housing supply⁴. The position in the Derby Sub-Area differs as there is a shortfall of 1718 dwellings in that Sub-Area. This has arisen following the withdrawal of the Local Plan Review (as explained above)⁵. However, I was advised by the Council that there were outstanding planning applications in the Derby Sub-Area to more than compensate for the shortfall. The appellants suggested that permission for this site would reduce the pressure on green field sites in the Derby Sub-Area. However, the Council advised that this would not be the case – permission for this site would merely exacerbate the oversupply of housing in the Swadlincote Sub-Area. I have had regard to the clear advice set out in PPG 3⁶ and I consider that granting planning permission for this proposal would be contrary to that advice.
20. I therefore conclude that the proposed redevelopment of the site would not be sustainable and is not necessary under the sequential approach to the provision of the housing in this part of the Council's area. Accordingly, the proposal is contrary to the relevant development plan policies and advice in PPG 3.

Is the site no longer needed for employment purposes? Does the present use cause significant harm to residential amenity?

21. As at the Hearing date the appellants had marketed the site through the services of Savills (Commercial Property Agents) for about 10 months. Further, the property had been marketed prior to the planning application being made but the details of action taken and enquiries arising from that marketing initiatives are limited. During that 10 month period that the site was marketed by Savills there had been no viewings or offers. The site had been exposed to the market via a sales board adjacent to the A444; advertisements in the press; mail-shots to potential interested parties; distribution of details to established estate agents and exposure through the agents' website. I was advised that whilst the property had not been advertised in the national press it was unlikely that such exposure would find an industrial occupier for the premises.
22. The Council are concerned that the details of the site were not advertised in local papers circulating in and around Swadlincote. However, the appellants confirmed that the leading commercial estate agents in the area were supplied with details of the property as was the Council itself for entry on to their vacant commercial properties list. Why this property was not included in that list is not clear.
23. The Council are also concerned that the property has not been exposed to the market for a sufficient length of time. The Council have obtained independent evidence as to the best practice for the marketing of commercial properties. This advice suggests that it is not

⁴ Document 8 – Paragraph 60

⁵ Document 8 – Paragraph 61

⁶ PPG 3 - Paragraph 30

uncommon for marketing to take in the region of 12 to 18 months, and in some instances up to 2 years.

24. It was suggested by the appellants' agent that the only further action that could be taken was to expose the property to the market via an auction. This had not been done and was not contemplated mainly because there were no alternative premises that Fryett's Fabrics Limited could move to at short notice.
25. On the evidence available I consider that the length of exposure of this site to the market by Savills is too short to conclude on the balance of probability that the property is redundant to industrial or commercial uses. Even if I am wrong about this I have had regard to the clear advice in PPG 3⁷ (as set out in the Policy section above) that planning permission for housing should not be granted if such would undermine the planning for housing strategy set out in the development plan. I have explained above why I consider the proposal is contrary to the relevant housing and locational policies of the development plan.
26. I have also considered whether the existing use of the site is incompatible with the nearby residential and other uses. From the Council's records, in the last 10 years there have been five complaints relating to litter, bonfires, untidiness and night-time noise from lorries. None of these complaints have been made within the last five years and all were resolved satisfactorily. The appellants have carried out their own survey of local residents which I have had regard to. Some local residents have experienced daytime disturbance resulting from traffic (noise and congestion), smells, industrial noise and noise from alarms and traffic at night. There are problems which occur if deliveries are made to the site at times when the entrance is closed to traffic and large HGVs park on the carriageway until the premises are opened the next morning. Having had regard to these matters I am of the view that problems do arise from time to time but can be resolved through the proper management of activities on the site and deliveries to the site. Accordingly, I do not consider that the use is incompatible with the nearby residential uses.
27. Turning now to the Structure Plan Policy tests not dealt with above, the Council consider that the site is well situated to assist in meeting the needs of the existing economically and socially deprived residential parts of the Swadlincote Sub-Area. However, I have had regard to the location of other nearby employment sites and consider that the loss of this site would not seriously disadvantage those living in those parts of the Swadlincote Sub-Area referred to above. Further, whilst I note the site's location and its access directly on to the A444 I do not consider that this is any better than that which is available from other larger employment sites nearby. Accordingly, I do not consider that the proposal would lead to a qualitative deficiency in employment land in this part of the District.
28. I am aware of the shortfall in the amount of employment land available in the Swadlincote Sub-Area as at March 2005⁸ compared with the Structure Plan requirement. However, it is clear that this shortfall has arisen following the withdrawal of the Local Plan Review and the allocations made therein. As land had been identified through the Local Plan Review process it appears to me that this apparent deficiency can be overcome within the current Structure Plan period (if needed). I accept that even if the Local Plan Review allocations were reinstated the loss of this site would leave a minor shortfall compared with the

⁷ PPG 3 – Paragraph 42a

⁸ Document 7 – Paragraph 34

Structure Plan target. However, the evidence given at the Hearing regarding the actual take up of land for employment uses in recent years suggested that there would be sufficient employment land available to meet the anticipated needs for employment growth within the current Structure Plan period. For these reasons, I do not consider that the loss of the site would result in a quantitative shortfall of employment land in the Swadlincote Sub-Area.

29. To summarise, I have explained that the present use is not incompatible with the existing nearby residential uses. Further, I have explained why I do not consider that the marketing exercise has shown that the site is no longer needed for employment uses. However, the policy requirement in the Structure Plan is that the proposal should not lead to a qualitative or quantitative deficiency in land for business uses in the area and on these two matters I have concluded that these problems would not arise from the proposal.
30. In my assessment there is a conflict between the policy approach set out in Paragraph 42(a) of PPG 3 and the Structure Plan approach. PPG 3 explains at paragraph 38 that its policies may supersede the policies in the development plan. In this case I am satisfied that the policies in PPG 3 should prevail over the development plan given that the policy approach in paragraph 42(a) was published in January 2005 whereas the Structure Plan was adopted in 2001. Clearly the First Secretary of State's approach is that set out in PPG 3.
31. I therefore conclude, for the reasons explained above, that that the present use of the site does not cause significant harm to residential amenity. Further, I am not satisfied that the site is no longer needed for employment purposes. Accordingly, the proposal would be contrary to advice in PPG 3.

Other Matters

32. Local residents have raised concerns regarding highway dangers, flooding, sewage, overshadowing, overbearing impact, the loss of the lay-by in front of their houses and loss of privacy to the occupier and danger to the animals at Council Farm.
33. There is no objection to the proposal from the Highway Authority who are primarily responsible for ensuring that new development would not have an unacceptable impact on highway safety and there is no evidence to suggest that their assessment is incorrect. I am satisfied that concerns regarding the disposal of surface water and sewage could be satisfactorily addressed through the imposition of appropriate conditions. I am also content that the new dwellings would be a sufficient distance from the existing dwellings on the opposite side of Woodlands Road so as to avoid overshadowing or have an overbearing impact. I was advised that the scheme would not involve the loss of the lay-by. I know that the proposal would result in more people living in the area and being close to Council Farm than is currently the case. However, I do not consider that this would result in an unacceptable loss of privacy for the occupier of the farm or any dangers for his animals.
34. I am aware and understand that Fryett's Fabrics Limited consider that their business would be better served by modern premises that can accommodate large HGVs. Further, I know that Fryett's Fabrics Limited may rationalise their business operations by closing the appeal premises and moving to other premises away from the area and the resulting impact that this may have on employment for local people.

35. Whilst I have found that these other matters do not weigh against the proposal they are insufficient to counterbalance the material harm that I have identified under the main issues referred to above.

Conclusions

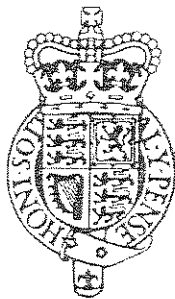
36. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Formal Decision

37. I dismiss the appeal.

Timothy Becker

INSPECTOR.



Appeal Decision

Site visit made on 14 March 2006

by **R W Moon BSc MCD MRTPI**

an Inspector appointed by the First Secretary of State

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

Date: 11 April 2006

Appeal Ref: APP/F1040/A/05/2005344

Land at Aston Lane, Shardlow, Derbyshire, DE72 2GX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Jordant Construction Ltd against the decision of South Derbyshire District Council.
- The application (Ref 9/2005/0519/O), dated 18 April 2005, was refused by notice dated 7 July 2005.
- The development proposed is the erection of 4 houses.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. The application is made in outline with all matters reserved for the future approval of the Council.

Main Issues

2. I consider the main issues in this appeal to be:
 - a) the effect of the proposed development on the form and character of the area character of the area, having regard to current national and local policies in respect of the countryside
 - b) whether the proposed housing development would be consistent with the achievement of sustainable development, as sought by national and local policies.

Planning Policy

3. The development plan for the area includes the Derby and Derbyshire Joint Structure Plan (2001) (SP) and the South Derbyshire Local Plan, adopted in 1998 (LP). The objective of SP General Development Strategy Policy 4 and SP Housing Policy 6 is to allow for development away from settlements only in limited circumstances. SP General Development Strategy 1 is a criterion based policy which, amongst other things, seeks to minimise the overall need to travel. LP Environment Policy 1 indicates that special circumstances are necessary to justify development in the countryside while LP Housing Policy 8 states that new housing will only be permitted where it is necessary to the operation of an established, viable, long term, rural based activity.

Reasons

Character of Area

4. The appeal site is situated in open countryside between 2 dwellings and near farm buildings, part of which are now accommodating a commercial use. The land to the north and south is low lying farmland. Open fields also separate Shardlow from the small group of development near

the appeal site. While the site is neglected it is no different from many other sites in the countryside where there are gaps between buildings. National guidance as set out in *Planning Policy Statement: Sustainable Development in the Countryside (PPS7)* and local policies are designed to limit housing and other development in the countryside to only those uses which require a countryside location. No special justification other than its position between 2 other dwellings and its untidy appearance has been advanced by the appellant to outweigh these policies. The conditions would be too easy to replicate and there is a simple solution to tidying the site and controlling the problem of unauthorised tipping. The development would help to consolidate the limited amount of building in this area of countryside in a way which would be harmful to established policies for its protection.

5. I have taken into account the appellant's comments regarding other development in the vicinity which are alleged to have been permitted or tolerated by the Council as well as comments regarding infilling but I have considered this case on its own merits against adopted policies. None of the circumstances advanced meet the policy requirements of the development plan. I therefore conclude that the proposed development would be harmful to the form and character of the area, having regard to current national and local policies in respect of the countryside and would be in conflict with SP General Development Strategy Policy 4 and SP Housing Policy 6, LP Environment Policy 1 and LP Housing Policy 8.

Sustainable Development Considerations

6. Beyond Field Farm this small group of houses have a footpath link with the village of Shardlow where there is the nearest bus stop. This is about 400 metres away and links Shardlow with Derby and other places. Shardlow itself has few services or facilities. No details of the frequency or other destinations of the bus service have been provided. A major objective of national policies as set out in *Planning Policy Statement; Sustainable Development in Rural Areas (PPS7)* is to focus most development in accessible locations in, or next to, existing towns and villages and to minimise the use of the car for most journeys. Because the location of the site is remote from the built-up edge of Shardlow, it is some distance to the nearest public transport and as the local facilities are limited, the likelihood is that most journeys would be taken by private car.
7. I conclude that the proposed housing development would be inconsistent with the achievement of sustainable development, as sought by national and local policies and would be in conflict with SP General Development Strategy 1.

Conclusions

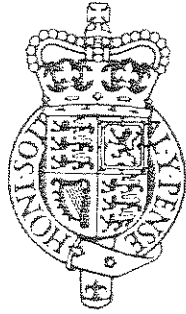
8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

9. I dismiss the appeal.

Rwmsan

INSPECTOR



Appeal Decision

Site visit made on 21 March 2006

by **R W Moon BSc MCD MRTPI**

an Inspector appointed by the First Secretary of State

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

Date **2/5/06**

Appeal Ref: **APP/F1040/A/05/1195633**

81 Main Street, Linton, Swadlincote, Derbyshire, **DE12 6QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by John Ferguson Marsh against the decision of South Derbyshire District Council.
- The application (Ref 9/2005/0481/O), dated 6 April 2005, was refused by notice dated 14 June 2005.
- The development proposed is 'the alteration of boundary lines between 79 and 81 Main Street to form access to back plot allowing for the building of a 4/5 bed 2-storey house'.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. Having regard to the above description and the submitted drawings, I have considered the appeal as a proposal for 'the erection of a dwelling on land forming part of the rear garden of 79/81 Main Street, Linton'. I will proceed with this appeal on the basis of this description but note the intention regarding the size of the proposed dwelling.

Main Issues

2. I consider the main issues in this appeal to be:
 - a) the effect of the proposed development on highway safety; and, flowing from the letters of objection from local residents,
 - b) the impact of the proposed dwelling on the living conditions of the occupiers of neighbouring properties with particular reference to noise and disturbance, outlook and privacy.

Planning Policy

3. The Council has not provided any statement making reference to any development plan policies, nor is its decision framed with any policy or policies as its basis. I therefore propose to consider this appeal on its own merits having regard to what I consider to be the material planning considerations.

Reasons

Highway Considerations

4. The proposed access to the new dwelling would be through an existing paved area between the 2 houses, Nos. 79 and 81 Main Street. This emerges on to the footway and then the carriageway of Main Street at a point where there is very limited visibility of both vehicles

and pedestrians; the standards being well below those set out in *Places Streets and Movement*. At the time of my site visit, which coincided with school leaving time, there was a lot of pedestrian activity on the footway in front of the site. This was due to parents and school children emerging from Linton County Primary School to the east. A school safety zone with a 20 mph speed restriction is situated nearby. There were also a large number of parked cars on the same side of Main Street as the appeal site and some on the opposite side parked on the recently grassed verge which allowed through vehicles to pass.

5. The appellant has gone to some lengths to show the inadequacy of a number of other accesses on Main Street. I saw all of these and while some have some of the defects of the present scheme in respect of sightlines others did not and none had identical characteristics with the appeal site. Although there is no dispute about their defects, some, such as those at 67 and 76 Main Street, 1a-10 Main Street and 21-30 Main Street, appeared to be long standing access points where planning permission would not have been required. I have also taken into account the fact that the access already exists and serves some 5-7 cars and its use could intensify. Nevertheless, the addition of another property generating independent trips using the same access would further intensify its use at a dangerous position.
6. The width of the access track is stated at 2.4 metres and, I calculate, would be about 38 metres long. Drivers trying to enter the site could be forced to reverse into Main Street when the driver trying to emerge is close to the access. This would be a particularly hazardous manoeuvre in view of the presence of small children and poor visibility. I have noted the offer to increase the width of part of the access track to 3.4 metres. However, this would be for only a limited length of the access at depth within the site and would be at a standard that would be less than the 4.0 metres recommended in *Residential Roads and Footpaths; Design Bulletin 32* as the minimum necessary for two way traffic to pass.
7. I have also noted the offer to create splays across part of the frontages of both Nos. 79 and 81 to improve safety and this much is in favour of the proposal but it does not outweigh the harm that would result from the intensified use of an access with defective sightlines. Consequently I conclude that the proposed development would have a harmful effect on highway safety.

Living Conditions

8. Turning to the consideration of living conditions of neighbours, the proposed siting would be very close to the boundaries of Nos. 77 and 83 Main Street. Being a 4/5 bed 2-storey family dwelling it would generate a good deal of activity in the garden area from the passage of vehicles and from normal household activities. It would also have considerable bulk in its context and would be intrusive in the outlook of residents backing on to the site. The distance from the back windows and sitting areas of these dwellings would be sufficient in my opinion to avoid unnecessary intrusion from direct window to window overlooking. However, there would be limited space about the building to reduce noise and disturbance and to prevent a significant loss of privacy for residents while they were in their gardens. I also consider that the proposal would appear bulky and incongruous in the outlook of nearby residents. I consider that there would be insufficient land to provide for the separation of the dwelling from surrounding gardens in order to preserve a reasonable living environment.

9. I conclude that the proposed development would have a harmful impact on the living conditions of the occupiers of neighbouring properties with particular reference to noise and disturbance, outlook and privacy.

Conclusions

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

Formal Decision

11. I dismiss the appeal.

LW Moon

INSPECTOR