

## DEVELOPMENT CONTROL COMMITTEE – 13 January 2004

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

### REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications
2. Appeals

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

1. The issues of fact raised by the Planning Services Manager's 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 Planning Services Manager, 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.



13/01/2004

**Item** 1.1**Reg. No.** 9 2003 0699 U**Applicant:**

Mr M J Stainsby  
 Riding Bank Farm, Cockshut Lane  
 Melbourne  
 Derby  
 DE731DG

**Agent:**

Mr M J Stainsby  
 Riding Bank Farm, Cockshut Lane  
 Melbourne  
 Derby  
 DE731DG

**Proposal:** The use for B1(business) and B8 (storage) purposes of Riding Bank Farm Cockshut Lane Melbourne Derby

**Ward:** Melbourne

**Valid Date:** 04/06/2003

**Site Description**

The site is a disused mushroom farm in open countryside. The range of buildings is of modern construction. The existing access to the site is Riding Bank Lane at the junction of The Common, Cockshut Lane and Robinsons Hill. Riding Bank Lane is a public bridleway.

**Proposal**

The proposed business use would be served by a new private way using the access to the applicant's dwelling next door. This is situated on Cockshut Lane, some 150m from the junction. The track would run alongside the boundary hedges of the applicant's field.

**Applicant's Supporting Information**

- a) There has been locked gate across Riding Bank Lane for the last seven years and it has been kept locked for most of the time, except when the former owner wanted to use the buildings. As the site has now been purchased by the applicant the gate can be kept locked at all times.
- b) 50% of the buildings would be used in connection with the applicant's own business for the storage of Oak beams and roof tiles. Two tenants would use the remainder, one for the storage of timber flooring and the other as a joinery shop.
- c) The applicant's own lorry would visit the premises about three times per week. The joinery shop would be used every day by two vehicles and the storage unit about two times per week. Movements would be kept to normal working hours, as they would use the applicant's access.
- d) Contrary to local suggestion, the premises will not be used by a tyre reclamation company.
- e) Vehicle movements would be low compared to when the buildings were in use as a mushroom farm, when there were about thirty movements per day, including articulated lorries using Riding Bank Lane.

## Site History

Apart from the site's agricultural use as a mushroom farm, permission was granted to use the site as a haulage yard for one lorry in 1987 (9/0687/188).

## Responses to Consultations

The Parish Council has no objection as the buildings have been used for industrial purposes for a number of years. However it is most concerned that the building on the opposite side of Riding Bank Lane was built without planning permission. (Comment: Available evidence suggests that the building is permitted development that began in the latter part of the 1980s).

Melbourne Civic Society objects in the following terms:

- a) An alternative use needs to be found for the buildings. Some are of permanent construction; others are flimsy and should be removed.
- b) The proposed access would not be suitable for heavy vehicle movements because of the need to negotiate the turns. Strong objection is raised to the use of any party of the applicant's field for access as this would lead to harmful industrial development there.
- c) Part 2 of the application form should be filled into ascertain the precise nature of the use.
- d) The use of Riding Bank Lane would be preferable subject to its use as a public right of way being protected.

The Environmental Health Manager has no comment.

The Highway Authority has no objection subject to conditions to preclude vehicular access via Riding bank Lane and limitation to the use specified by the applicant.

## Responses to Publicity

Five letters have been received objecting as follows:

- a) The application provides no information as to the type and intensity of the use.
- b) Industrial use in this area is contrary to the local plan.
- c) The proposed access would likely not be used because of its tortuous route. Traffic would therefore use Riding Bank Lane, which is public right of way with a dangerous junction at the main road.
- d) If permission is granted there is concern that the tyre processing business, and other non-B1 uses, at the nearby Dovesite premises could be transferred to the application site. Dovesite has been the source of many problems concerning noise, fumes, pollution and vibration from the many companies operating there.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 5.

Local Plan: Employment Policy 4.

Emerging Local Plan: EMP2.

## Planning Considerations

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

- The principle.
- Impact on the countryside.
- Residential amenity.
- Highway safety.
- Public right of way.

## Planning Assessment

The re-use of vacant rural buildings for business purposes is favoured by the development plan as a matter of principle. The proposal would enable the applicant to consolidate his business close to his home, in accord with the principles of sustainable development. The remainder of the floorspace similarly provides local employment opportunities.

The impact on the countryside would be minimal subject to control on outside storage.

Subject to conditional control to limit the scope of occupation of the premises and hours of operation, the impact on neighbours would not be harmful.

On the advice of the Highway Authority the proposal would not bring about an adverse safety situation.

The means of precluding vehicular access to Riding Bank Lane would not unreasonably impair its usage as a footpath and bridleway. The development would not otherwise affect the right of way.

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

## Recommendation

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Prior to any other works commencing, any means of vehicular access to the site along Riding Bank Lane shall be prevented by providing a gate which shall be locked and maintained so at all times, in accordance with the details shown on the amended plan received 24 September 2003.
2. Reason: In the interests of highway safety.
3. Access to the site shall be via the Riding Bank farm access and along a track in accordance with the application drawing. The track shall be surfaced in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
3. Reason: In the interests of highway safety and the appearance of the area.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 the use of the application site shall be restricted to the uses specified in the applicant's letter dated 10 July 2003, unless as may otherwise be approved in writing by the Local Planning Authority.
4. Reason: In the interests of highway safety and residential amenity.
5. There shall be no goods or materials stored in the open, unless as may otherwise be approved in writing by the Local Planning Authority.
5. Reason: In the interests of the amenity of the area.
6. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times nor at any time on Sundays, Bank or Public Holidays:  
07:00 hrs - 1800 hrs Monday to Friday  
07:00 hrs - 13:00 hrs Saturday.
6. Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

Informatives:

Riding Bank Lane carries the route of Bridleway 19 in the Parish of Melbourne, as shown on the Definitive Map. The rights of users of the bridleway shall be protected at all times.

13/01/2004

**Item** 1.2**Reg. No.** 9 2003 0931 L

**Applicant:**  
 Pathfinder Pubs  
 Albank House  
 Albank Road  
 Wolverhampton  
 WV1 4JT

**Agent:**  
 Paul Koren  
 4 Airdale Grove  
 Stone  
 Staffordshire  
 ST15 8JL

**Proposal:** **Alterations to premises and conversion of former stables into hotel letting rooms at the Crewe & Harpur Arms Derby Road Swarkestone Derby**

**Ward:** **Aston**

**Valid Date:** **30/07/2003**

See report 9/2003/0932/F.

### **Recommendation**

**GRANT** consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 0243-12B, 13B and 14C received 15 December 2003.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of internal and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.
3. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
4. Reason: In the interests of the appearance of the building(s) and the character of the area.

5. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
5. Reason: In the interests of the appearance of the building(s) and the character of the area.
6. Before development begins samples of the stone paving and the edging to the paved area along with a specification for their laying including laying patterns shall be submitted to and approved in writing by the Local Planning Authority. The paving shall be laid in accordance with approved specification.
6. Reason: To ensure that the paving is appropriate to the setting of the listed building.
7. Before the stone paving is constructed the existing steps and wall to the garden shall be replaced in stone in accordance with details, specifications and samples that shall have previously been submitted to and approved in writing by the Local Planning Authority.
7. Reason: To preserve the character and appearance of the conservation area.
8. Notwithstanding the submitted drawings full specifications of the alterations to Bedroom 3 shall be submitted to and approved in writing by the Local Planning Authority before work begins and work shall be undertaken in accordance with the approved specification.
8. Reason: To ensure that the work is in keeping with character of the listed building.
9. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
9. Reason: In the interests of the appearance of the building(s).
10. A sample panel of pointing 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
10. Reason: In the interests of the appearance of the building(s) and the locality generally.
11. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed brick and natural slate, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
11. Reason: In the interests of the appearance of the building.



13/01/2004

**Item** 1.3**Reg. No.** 9 2003 0932 U**Applicant:**

Pathfinder Pubs  
 Albany House  
 Albany Road  
 Wolverhampton  
 WV1 4JT

**Agent:**

Paul Koren  
 4 Airdale Grove  
 Stone  
 Staffordshire  
 ST15 8JL

**Proposal:** Alterations to premises and conversion of former stables to hotel letting rooms and formation of paved area at the Crewe & Harpur Arms Derby Road Swarkestone Derby

**Ward:** Aston

**Valid Date:** 30/07/2003

**Site Description**

The Crewe and Harpur Arms is an old coaching inn close to Swarkestone Bridge, situated at the corner of Derby Road with Woodshop Lane. It is now a pub and restaurant with car parking for about 100 cars. The attached former stable block, attached to the main building is listed Grade II in its own right. It has been latterly in use as an indoor play area. There is a lawned beer garden opposite the front of the main building on the other side of Woodshop Lane, adjacent to the River Trent. There are residential properties to the west and north of the site.

**Proposal**

The applicant proposes mainly internal alterations to the stable block, to form seven rooms for overnight accommodation. There would be minor elevational changes but the fabric of the building would be largely retained. The play area would thus cease to exist. An area paved with natural stone flags would be provided in the beer garden, close to Swarkestone Bridge. No extensions are proposed.

**Site History**

The site was subject to substantial extension following the grant of planning permission in 1994 (9/0993/0534/F).

**Responses to Consultations**

The Highway Authority and Environmental Health Manager have no objection.

**Responses to Publicity**

Nine letters have been received objecting as follows:

- a) The works would alter and adversely affect the historic internal and external character of the building.
- b) The paved area in the beer garden would be out of keeping with the conservation area and the historic setting. It would also lead to the curtailment of community events thereon.
- c) The existing waste bin area is unsightly and should be screened or relocated. It also causes odours and attracts vermin.
- d) The bin store provided pursuant to the 1994 permission should be used, with access gained from the car park.
- e) Existing congestion in Woodshop Lane, from customers' and service vehicles would be exacerbated. This problem causes nuisance and hampers passage by emergency vehicles.
- f) Delivery hours should be controlled to prevent disruption to neighbours. The proposal is likely to make the existing situation worse.
- g) The proposal would exacerbate existing noise and smell disturbance, caused by the premises being open continuously.
- h) More motorcyclists with the associated noise of their machines would be attracted.
- i) The management and maintenance of the premises causes environmental, amenity and visual effects that are not in keeping with the area.
- j) A precedent would be set for harmful development.
- k) The infrastructure is inadequate for the development.
- l) The pub will not be suitable for local residents.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policies 9 & 10 and Leisure & Tourism Policy 9.

Local Plan: Environment Policies 12 & 13 and Recreation and Tourism Policy 1.

Emerging Local Plan: ENV19 & 20 and LRT7.

### **Planning Considerations**

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

- The principle.
- Impact on the listed building and conservation area.
- Residential amenity.
- Highway safety.

### **Planning Assessment**

The site is an established public house and restaurant. The conversion of the building to overnight accommodation is, in principle, in accord with the locational policies of the development plan as set out in the recreation and tourism policies.

The proposal pays due regard to the need to work around the historic fabric of the old stable block and the proposal would provide a viable use for the building. Conversion of the building would thus preserve the fabric of the listed building and the character and appearance of the conservation area. The proposed paving to the lawned beer garden would occupy a small part of the garden and its informal layout would have a neutral impact on the character and appearance of the conservation area and the setting of the listed building.

The use of the building as overnight accommodation, rather than as a children's play area, is unlikely to cause any demonstrable loss of amenity to local residents. Similarly the proposed paved area is unlikely to cause any additional disturbance. Existing management issues are not material to this application.

On the advice of the Highway Authority the proposal would not result in an adverse highway safety situation.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 0243-12B, 13B and 14C received 15 December 2003.
2. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Large scale drawings to a minimum Scale of 1:10 of internal and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.
3. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
4. Reason: In the interests of the appearance of the building(s) and the character of the area.
5. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
5. Reason: In the interests of the appearance of the building(s) and the character of the area.
6. Before development begins samples of the stone paving and the edging to the paved area along with a specification for their laying including laying patterns shall be submitted to and approved in writing by the Local Planning Authority. The paving shall be laid in accordance with approved specification.
6. Reason: To ensure that the paving is appropriate to the setting of the listed building.

7. Before the stone paving is constructed the existing stepsand wall to the garden shall be replaced in stone in accordance with details, specifications and samples that shall have previously been submitted to and approved in writing by the Local Planning Authority.
7. Reason: To preserve the character and appearance of the conservation area.
8. Notwithstanding the submitted drawings full specifications of the alterations to Bedroom 3 shall be submitted to and approved in writing by the Local Planning Authority before work begins and work shall be undertaken in accordance with the approved specification.
8. Reason: To ensure that the work is in keeping with character of the listed building.
9. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".
9. Reason: In the interests of the appearance of the building(s).
10. A sample panel of pointing 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
10. Reason: In the interests of the appearance of the building(s) and the locality generally.
11. All works of alteration and making good of the existing fabric of the building shall be carried out in matching reclaimed brick and natural slate, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.
11. Reason: In the interests of the appearance of the building.

13/01/2004

**Item** 1.4**Reg. No.** 9 2003 1385 F**Applicant:**

Mr M Nolan  
3, Walnut Close  
Burnaston  
Derby  
DE65 6PA

**Agent:**

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

**Proposal:** The demolition of the existing house and the erection of a new dwelling at 3 Walnut Close Burnaston Derby

**Ward:** Etwall

**Valid Date:** 13/11/2003

**Site Description**

The site comprises a small plateau within the current village confine. The land drops sharply away to the east into the fields and to the west to the houses and road through the village. To the north is Park Farmhouse that is substantially lower than the site with the roof of which appears above the fence on the site

**Proposal**

The dwelling would be substantial. It has been designed with various elements broken down into two wings. The mass of these wings is further reduced using gables. The dwelling would also contain an office and a 'granny' annexe. It would be constructed in red brick and blue roofing material.

Access would be via the existing dwelling that would be demolished. A public footpath passes through the plot in an east/west direction. A screen wall 2 metres high with access gates would be constructed on the dwelling side of the footpath. Additional tree planting is proposed within the site, with a number of existing trees that are to be retained.

Since submission, the applicant has been asked to amend the proposals to remove a secondary widow in the office and the balcony in front of the French doors to the office.

**Planning History**

Outline planning permission for the erection of a replacement dwelling was granted in 2002. A subsequent reserved matters application was withdrawn earlier this year.

**Responses to Consultations**

Burnaston Parish Council comments will be reported at the meeting.

The County Highways Authority has no objection to the development subject to conditions.

### **Responses to Publicity**

4 letters have been received objecting to the development for the following reasons: One is extensively illustrated with annotated photographs and sectional drawings, showing the perceived impact. -

- a) The proposed garage would overbear and overshadow the adjacent house and garden.
- b) The house is bigger than the previous proposal and many times bigger than the house it is to replace. A house of this size deserves a parkland setting or a substantial acreage, it would be intolerable to look at the building from the three rear windows of the property. The adjacent dwellings are all at a lower level than the proposed dwelling. This is particularly so in the case of Park Farmhouse but other dwellings are at least 1.0 metre below the ground level of the proposed house.
- c) There is concern that additional traffic will be attracted to the area arising from the office proposal. They should not be allowed to run a business from a small rural hamlet like Burnaston.
- d) The proposed parking area adjacent to the boundary, presumably for clients vehicles would add to the noise in the houses especially those at a much lower level. Walnut Close is also unsuitable for the extra traffic.
- e) A high rate of Council Tax is paid and the amenity of the property for which they pay dearly would be lost.
- f) Proposed tree planting would also overshadow the garden.
- g) The applicant should not have purchased the property if it was not big enough for him.
- h) The building works would take place in the summer months and his would cause dust and disturbance rendering use of adjacent gardens impossible.
- i) The moving of fences without the owner's permission and diverting footpaths without consent is legally questioned.
- j) The proposals appear to include a 2-metre high brick wall along the boundary to the adjacent dwellings, this is not wanted and should only be built on the applicant's side of the boundary.
- k) The ground floor would be level with the bedrooms of Park Farmhouse and cause loss of privacy to all the rooms in the front and loss of light.
- l) External lighting could cause light pollution.
- m) There is concern that the bank adjacent to the proposed dwelling may not be stable enough to take the weight of the house causing a collapse of the bank.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5

Emerging Local Plan: H1 & ENV 21.

### **Planning Considerations**

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

- The design and location of the dwelling relative to its surroundings and whether this would cause material harm the occupiers of the adjoining dwellings to a point where refusal of

reserved matters could be justified under the provisions of adopted Supplementary Planning Guidance.

### **Planning Assessment**

The principle of a dwelling on this site is established by the grant of outline planning permission. The issue here is as outlined above.

There is no doubt that the proposed dwelling is substantial and much larger than the dwelling it is to replace. The plot on which the dwelling would stand is also substantial. The main living accommodation is proposed to be situated at the east side of the plot as far away as practicable from those dwellings that are set at a lower level than the plot. The ancillary accommodation (garages, pool, granny annexe and offices) are set in a wing adjacent to the north boundary with a ridge line to the roof that is some 1.5 metres lower than the main accommodation wing.

A window was proposed in the office part of the proposal together with a balcony over the garage would have resulted in the overlooking of the adjacent dwellings and the applicant have been asked to remove these elements from the proposal.

One objector has expressed concern about the potential overlooking of their windows from those windows in the garage. An appraisal of the situation by reference to adopted Supplementary Planning Guidance has shown that the remaining window would be at such an angle to the adjacent dwellings that the window would not overlook habitable rooms even taking the difference in levels into account.

There would be no loss of light to the adjacent bungalows as the proposed dwelling lies to the northeast of these houses and their gardens.

Park Farmhouse lies to the north of the proposal and at a considerably lower level than the site as described above. There is a row of conifer trees on the boundary between the two properties that the applicant proposes to remove. The farmhouse also has several large native trees on its side of the boundary. The new dwelling would not provide any greater degree of overshadowing than exists now.

In terms of overlooking, the lower part of the proposed dwelling would be erected on this boundary at a distance of some 2 metres from the boundary. The windows to the proposed games and room utility room would not overlook the house itself. At first floor level, there is one window and three rooflights. There is a proposed bedroom window and the separation between the windows and the house is 23 metres. Together with the screening afforded by the trees on the farm side of the boundary, it is not considered that a refusal on grounds of overlooking could be sustained. The rooflights have a cill height of 1.8 metres and in most circumstances; it would not be possible to look out of these openings.

The development is therefore in accord with adopted Supplementary Planning Guidance in terms of its location within the plot subject to the amendments referred to above.

The design of the building is much more in keeping with the local style than that proposed in the withdrawn application. It has two main elements broken up by the use of gables and differing roof heights. The design is therefore acceptable.

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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 8456/5A.
1. Reason: For the avoidance of doubt, the original submission being considered unacceptable.
2. 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.
2. Reason: In the interests of the appearance of the area.

Informatives:

You are reminded that details of the materials of construction remain to be submitted.



13/01/2004

**Item** 1.5**Reg. No.** 9 2003 1420 F**Applicant:**

Luckhurst Ltd  
 Black Fir Tree Farm  
 Dalbury Lees  
 Ashbourne  
 Derbyshire  
 DE6 5BE

**Agent:**

Montague Architects  
 9 Vernon Street  
 Derby  
 DE11FR

**Proposal:** The erection of a dwelling on Land Forming Part Of The Garden Of The Rectory Rectory Gardens Aston-on-trent Derby

**Ward:** Aston

**Valid Date:** 24/11/2003

**Site Description**

The site is part of the garden to All Saints Rectory, situated within a small development of modern dwellings, mainly bungalows. The stone wall to the churchyard forms the eastern boundary of the site. All Saints Church is a Grade I Listed Building.

**Proposal**

A two-storey dwelling is proposed. The design displays a low eaves line and the upper floors would be accommodated within the roof space. The highest part of the building would be set towards the boundary with the Rectory (a two-storey building) and the roof would slope down towards the boundary with No 5 Rectory Gardens (a low bungalow).

The finished floor level of the dwelling would be 1.3 m below the ground level of the land to the rear of the church. Thus the top of the stone boundary wall would be roughly level with the bottom of the first floor of the dwelling

**Applicant's Supporting Information**

- a) The proposed, predominantly single storey building has been designed to respect the scale of neighbouring properties including the two storey Rectory and single storey bungalow at No. 5 Rectory Gardens. All soffits, roof hips and ridges respect the surrounding vernacular.

- b) Care has also been taken to avoid overlooking and loss of privacy for existing residents, both towards No. 5 and the Rectory, and towards the Churchyard. This has been achieved by placing all first floor habitable room windows facing the front of the property in a westerly direction. The only window in the roofspace to look toward the Church has been designed as a high level glazed gable feature. This does not allow any view of the Churchyard, but does allow an oblique view of the tower and tree canopies.
- c) It is intended to use a multi-stock brick with subtle contrasting brick features and clay tile roof, this in conjunction with the traditional design, will give an overall effect that has evolved a design which achieves a superior result commensurate with the quality of this site and location.

### **Site History**

Outline permission was granted in March 2003 (9/2003/0051). No illustrative drawings were provided. The Committee imposed a condition requiring the dwelling to be a bungalow only.

### **Responses to Consultations**

The Parish Council objects for the following reasons:

- a) The height of the building is greater than expected and would not be in harmony with No 5 Rectory Gardens.
- b) The dwelling is not in keeping with Derbyshire rural architecture and is out of character with its surroundings, particularly in view of its close proximity to the church.
- c) Surface water and foul sewage may run into the pond at No. 5 and it is believed that the drains running under the garden of No. 5 are not adequate to cope with the new house.

The Highway Authority has no objection in principle.

The County Archaeologist recommends a watching brief to ensure that any archaeological interest is recorded.

### **Responses to Publicity**

A neighbour objects in the following terms:

- a) The site is in the conservation area.
- b) Because of its height the building would not be compatible with the locality, which has five bungalows in the immediate vicinity.
- c) If permission were to be granted there would be a precedent for applications for roof extensions to the existing bungalows.
- d) The sewerage system is inadequate.
- e) Existing parking congestion would be exacerbated.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 & 3, Housing Policy 5 and Environment Policy 10.

Local Plan: Housing Policy 5 and Environment Policy 13.

Emerging Local Plan: Policy H1 ENV19 and ENV21.

### **Planning Considerations**

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

- The principle
- Impact on the general character of the area and the setting of All Saints Church.
- Residential amenity.
- Drainage.
- Highway safety.
- Archaeology

### **Planning Assessment**

The site lies within the boundary of a serviced settlement. Therefore the proposal meets the locational requirements of the development plan as a matter of principle. In addition there is an extant outline permission affecting the site.

Whilst the proposal does not meet the requirement set out in the outline permission for a bungalow, this is a full application and therefore it is necessary to consider whether the impact of the proposed design is acceptable on its own merits. The proposed design displays sympathy to its context and the mass of the building is broken down into smaller elements. Window design and basic proportions are respectful of the church architecture next door and more in keeping with the setting than most of the other dwellings in the cul-de-sac.

The proposal satisfies supplementary planning guidance on space about dwellings, subject to a condition requiring rooflights to be above eye level. The impact on neighbours is therefore acceptable.

The matter of drainage can be safeguarded through the imposition of an appropriate condition.

On the advice of the Highway Authority there would be no adverse highway safety issues.

There was no representation in respect of archaeology in response to the outline application. However the applicant has indicated that there would be no objection to a watching brief condition and the benefit of the observations would thus become available to the community.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

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

2. The access shall have a minimum width of 3.2m, be provided with 2m x 2m x 45° pedestrian intervisibility and 2m x maximum achievable visibility sightlines, the area forward of the sightlines being maintained in perpetuity clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.
2. Reason: In the interests of highway safety.
3. Prior to the occupation of the dwelling, the access shall be surfaced in a solid bound material (i.e. not loose chippings) for at least 5m into the site from the highway boundary.
3. Reason: In the interests of highway safety.
4. 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. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.
4. Reason: To ensure that adequate parking/garaging provision is available.
5. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.
5. Reason: In the interests of the appearance of the building(s) and the character of the area.
6. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.
6. Reason: To safeguard the appearance of the existing building and the locality generally.
7. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and external joinery shall be constructed in accordance with the approved drawings.
7. Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.
8. Reason: In the interests of the appearance of the building(s) and the character of the area.
9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.
9. Reason: In the interests of the appearance of the building(s) and the character of the area.

10. Gutters and downpipes shall have a black finish.
10. Reason: In the interests of the appearance of the building(s), and the character of the area.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, 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.
11. 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.
12. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
12. Reason: In the interests of the appearance of the area.
13. 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.
13. Reason: In the interests of flood protection and pollution control.
14. An archaeological watching brief shall be undertaken by an archaeological contractor appointed by the Local Planning Authority in accordance with a written fieldwork specification that shall have previously been submitted to and approved in writing by the Local Planning Authority.
14. Reason: The site lies in an area where remains of the medieval village may exist.

**Informatives:**

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

13/01/2004

**Item** 1.6**Reg. No.** 9 2003 1431 F**Applicant:**

J W Poultney & Son  
 Gunby Farm, Gunby Hill  
 Netherseal  
 Swadlincote  
 Derbyshire  
 DE12 8AS

**Agent:**

J W Poultney & Son  
 Gunby Farm, Gunby Hill  
 Netherseal  
 Swadlincote  
 Derbyshire  
 DE12 8AS

**Proposal:** **The installation of an automated operating mechanism and the re-hanging of the gate at the entrance to the parking and garage area serving the converted barns and farmhouse at Gunby Farm Gunby Hill Netherseal Swadlincote**

**Ward:** **Seales**

**Valid Date:** **24/11/2003**

**Site Description**

The gate is located on a private access driveway between a farmhouse and former barns that have been converted to three dwellings, the driveway is used by the occupiers of the four houses. The gate is located between the end elevations of the farmhouse and the adjoining dwelling, The Byre, The Byre has a main kitchen window on the end elevation in close proximity to the gate.

**Proposal**

The application is for the re-hanging of the existing gate with the hinges on the other side, so that it opens towards the access driveway rather than into the courtyard, and the installation of an automated operating mechanism where a code number can be keyed in by the occupiers of the dwellings on keypads located either side of the gate. The keypad on the road side of the gate is indicated approximately 9.5 metres from the gate at the side of the access driveway, this siting would be at least 6 metres from the kitchen window on The Byre.

**Applicants' supporting information**

The existing gate and gatepost would be fitted with an automated krono wormfeed gear motor controlled by a digital keypad. The gate will swing on the opposite side to its original position hence preventing vehicles stopping outside the adjoining property.

**Planning History**

A planning application for the retention of the gate was refused earlier this year on the grounds that 'the location of the gate seriously affects the amenities of the occupiers of the adjoining

property through the starting and stopping of vehicles in close proximity to their kitchen and by adversely affecting their privacy.' An Enforcement Notice has been served requiring the removal of the gate and an appeal is underway against the Enforcement Notice, the appeal will be an informal hearing.

Another application for the retention of the gate is also on this agenda.

Planning permission was granted for the relocation of a gate at the entrance to the site earlier this year.

### **Responses to Consultations**

The Parish Council has raised no objections however they have suggested that the siting of the gate should be investigated to avoid causing nuisance to neighbouring properties.

The County Highway Authority has no comments to make.

### **Responses to Publicity**

One letter has been received from the occupier of the adjoining dwelling raising the following issues:

- The automated system would not overcome the issues raised concerning the gate under application 9/2003/1432/F or application 9/2003/0636/F
- Presumably this application has been submitted separately from the gate application in the hope that either the new gate application will be granted or the appeal won. Throwing lots of mud and hoping some will stick should be viewed with the contempt it deserves.
- The automated system would most probably compound the problem of vehicles stopping outside the neighbouring property.
- Presumably even more vehicles would start reversing down the driveway.
- The application would severely affect the privacy in the garden/ patio area of The Byre.
- Mr Birkett made it absolutely clear at the Committee Meeting in July that automated gates are not in keeping with the countryside.

The adjoining occupier then explains details of a compromise which he believes would overcome the above issues. This would involve automation of the roadside gate which already has planning permission, removal of the existing gate outside The Byre and the erection of a further gate into the yard area at the rear of the farmhouse which could be used by the Applicant for secure storage.

### **Structure/Local Plan Policies**

There are no policies which are directly relevant to this scheme.

### **Planning Considerations**

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

- The appearance of the gate
- The impact on the amenity of the occupiers of the adjoining dwellings.

## Planning Assessment

Planning permission is only required for the gate because a condition on the approval for the barn conversions removed permitted development rights for gates and other means of enclosure, the reason for this condition was 'to ensure that any such structures would be appropriate to the character and appearance of the buildings'. The gate is a metal seven bar field gate across the end of the driveway at the entrance to the farmyard/ courtyard area. The gate does not match the materials of the adjoining fencing which was erected as part of the barn conversion scheme, the fencing is wooden post and rail fencing. However the gate is viewed against the backdrop of industrial buildings, which are located at the rear of the farmyard/ courtyard area, and its appearance is not considered to be significantly detrimental to the character and appearance of the buildings or the amenity of the locality.

This application is a resubmission following the refusal of a planning application for the retention of the gate earlier this year, the application was refused as Members considered that the gate by virtue of its location has an adverse impact on the amenity of the occupier of the adjoining dwelling. The Applicant has addressed the reason for refusal by proposing the re-hanging of the gate so that it will open down the driveway forcing drivers to stop their cars some distance away from the neighbouring occupier's window. The application also proposes the installation of an automatic operating mechanism so that drivers of vehicles can key in a code so that the gate will open and then shut again automatically. This will ensure that drivers have no reason to get in and out of their vehicles or walk in front of the kitchen window on the end elevation of The Byre.

The driveway is used by the occupiers of four dwellings and traffic levels are not high. The gate impedes the flow of traffic rather than increases or reduces traffic volume. In view of these facts and the opening mechanism which the Applicant proposes to install it is not considered that the level of disturbance can be such as to adversely affect the amenity of the occupier of the adjoining dwelling to the extent where refusal of the planning application would be justified.

## Recommendation

**GRANT** permission subject to the following conditions:

1. Within one month of the date of this permission details of the proposed automatic operating mechanism to be affixed to the gate and gatepost shall be submitted to and approved in writing by the Local Planning Authority, the gate shall then be rehung and the agreed operating mechanism shall be fitted within 3 months of the date of this permission.
1. Reason: In the interests of the amenity of the occupiers of the adjoining dwelling.



**Item** 1.7

**Reg. No.** 9 2003 1432 F

**Applicant:**

J W Poultney & Son  
Gunby Farm, Gunby Hill  
Netherseal  
Swadlincote  
Derbyshire  
DE12 8AS

**Agent:**

J W Poultney & Son  
Gunby Farm, Gunby Hill  
Netherseal  
Swadlincote  
Derbyshire  
DE12 8AS

**Proposal:** **The retention of a gate at the entrance to the parking and garage area serving the converted barns and the farmhouse at Gunby Farm Gunby Hill Netherseal Swadlincote**

**Ward:** Seales

**Valid Date:** 24/11/2003

**Site Description**

The gate is located on a private access driveway between a farmhouse and former barns that have been converted to three dwellings, the driveway is used by the occupiers of the four houses. The gate is located between the end elevations of the farmhouse and the adjoining dwelling, The Byre, The Byre has a main kitchen window on the end elevation in close proximity to the gate.

**Proposal**

The application is for the retention of a gate. The gate is a metal, seven bar, field gate and is hung between a wooden gatepost and a brick wall. The Applicant has erected a notice in front of the gates informing drivers that 'vehicles please stop at yellow line before opening gate' and has painted a yellow line on the driveway 5 metres back from the gate.

**Applicants' supporting information**

The Applicants have submitted a letter stating that the resubmission does, in a number of key methods deal with the reasons for the refusal of the previous application:

- A yellow line has been applied to the access at a suitable point to allow vehicles to stop and the gate mechanism to be used without unnecessary manoeuvring of the vehicle in question. This should, to a considerable extent, improve the privacy of the adjoining property.
- A notice has been posted to draw visitors attention to this preferred procedure.
- It is proposed to install a modified locking arrangement for the gate which will both simplify the locking procedure and at the same time, with appropriate modifications, provide a significant reduction in noise levels relating to the use of the gate (photos have been submitted showing that the new latch has been fitted).

The applicants trust that the above information will assure the Development Control Committee that every effort has been made to address the reasons for the previous refusal whilst maintaining the security provided by the presence of the gate which is in the interest of all residents.

The Applicant has submitted letters from the MP, their insurance company, the NFU and the Police in support of their need for security at the site following the theft of items from the site in 2002.

The Applicant has also submitted letters sent between the occupier of The Byre and the MP, and the Applicant and the MP, some of which were submitted to the Council for consideration during the consultation period of the previous application. The final letter from the MP to the Applicant makes it clear that he will not comment on the details of the applications themselves but has confined his comments to the possible generic crime prevention benefits of using gates in rural locations.

### **Planning History**

A planning application for the retention of the gate was refused earlier this year on the grounds that 'the location of the gate seriously affects the amenities of the occupiers of the adjoining property through the starting and stopping of vehicles in close proximity to their kitchen and by adversely affecting their privacy.' An Enforcement Notice has been served requiring the removal of the gate and an appeal is underway against the Enforcement Notice, the appeal will be an informal hearing.

Another planning application for the re-hanging of the gate along with the installation of an automated operating mechanism is also on this agenda.

Planning permission was granted for the relocation of a gate at the entrance to the site earlier this year.

### **Responses to Consultations**

The Parish Council have raised no objections, however they have suggested that the siting of the gate should be investigated to avoid causing nuisance to neighbouring properties.

The County Highway Authority has no comments to make.

### **Responses to Publicity**

One letter of representation has been received from the occupier of the adjoining dwelling raising the following points:-

- The original plan relating to the conversion of the barns and which secured planning permission clearly states that the gate is to be removed. I would suggest that developers are generally well aware that properties with access problems don't sell. The sales brochure does not show gate after gate before one reaches ones property.
- A similar application, reg no 9/2003/0636/F has already been refused. SDDC accepted that the gate seriously affects the amenities of the occupiers of the adjoining property and adversely affects the privacy.
- SDDC issued an enforcement notice requiring the removal of said gate and the applicant currently has an appeal lodged.

- The applicant already has permission for a gate 5 metres in from the roadside entrance. Reg no 9/2003/0635/F refers.
- The boundary of the adjoining property is that shown on the SDDC plan.
- The appearance of the gate is not in keeping with the surrounding area and character/ style of the existing boundary fence.
- The adjoining property, The Byre, suffers loss of privacy due to the position of the gate and the occupier suffers a loss of amenity and a noise nuisance.
- The driveway at the point where the gate is situated is just 3.55m metres wide and only 1.7 metres from the wall of The Byre.
- Due to planning restrictions, the planning permission relating to the conversion of The Byre does not permit any windows along the wall facing the road. The kitchen window on The Byre is therefore the only window in the entire property that does not face the courtyard. This room is therefore used extensively.
- Permitted development rights have been removed preventing any screening etc, not that this is possible due to the extreme proximity of the gate.
- There is no livestock to be contained by the gate.
- There is no need for two gates on a relatively short driveway.
- The local police acknowledge that they always work from the outer most property boundary and work into the centre of the house. As stated above the applicant already has permission for a gate securing the boundary. This will satisfy insurers requirements.
- The applicant makes these comments in a letter *'the gate is also closed during the day when the neighbours are all out at work and there have been numerous occasions when vehicles, containing itinerants/ dubious looking characters have come up the drive and had to stop at the gate.'* This statement is vague and unquantifiable however the point is that these individuals should be kept at the roadside and not directly outside the adjoining dwelling. The gate at the end of the driveway would serve this purpose.
- Due to the ongoing noise problem the applicant painted a yellow line on the driveway in the expectation that vehicles would stop. The applicant told Environmental Health that the line is 12 metres from The Byre, however in reality it is less than 5 metres.
- Vehicles continue to park outside the kitchen window of The Byre, indeed the latest driveway sign has now led to service vehicles stopping at the gate, making their delivery and then reversing down the driveway onto the main road, a matter raised with the Highway Authority.
- When the applicant was asked why they had submitted 2 gate applications, one at the roadside entrance and one outside The Byre, the response was 'to be difficult'.
- Following the site visit on 29<sup>th</sup> July relating to application 9/2003/0636/F a Councillor made the following extremely valid observations at the Committee Meeting
  - Gunby Farm is no longer a working farm
  - The site is now a residential development
  - The suggestion by the applicant that the resident of The Byre should shut his curtains is unreasonable. Natural light in The Byre is not particularly good as it is, the property would become very dark
  - It is understood why the resident of The Byre might feel like a gatekeeper
  - The proximity of the gate to The Byre
  - Invasion of privacy
  - Loss of amenity

The adjoining occupier then explains details of a compromise which he believes would overcome the above issues. This would involve automation of the roadside gate which already has planning permission, removal of the existing gate outside The Byre and the erection of a further gate into the yard area at the rear of the farmhouse which could be used by the Applicant for secure storage.

### **Structure/Local Plan Policies**

There are no policies which are directly relevant to this scheme.

### **Planning Considerations**

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

- The appearance of the gate
- The impact on the amenity of the occupiers of the adjoining dwellings

### **Planning Assessment**

Planning permission is only required for the gate because a condition on the approval for the barn conversions removed permitted development rights for gates and other means of enclosure, the reason for this condition was 'to ensure that any such structures would be appropriate to the character and appearance of the buildings'. The gate is a metal seven bar field gate across the end of the driveway at the entrance to the farmyard/ courtyard area. The gate does not match the materials of the adjoining fencing which was erected as part of the barn conversion scheme, the fencing is wooden post and rail fencing. However the gate is viewed against the backdrop of industrial buildings, which are located at the rear of the farmyard/ courtyard area, and its appearance is not considered to be significantly detrimental to the character and appearance of the buildings or the amenity of the locality.

This application is a resubmission following the refusal of a planning application for the retention of the gate earlier this year, the application was refused as Members considered that the gate by virtue of its location has an adverse impact on the amenity of the occupier of the adjoining dwelling. The Applicant has addressed the reason for refusal by painting a yellow line set back five metres from the gate and erecting a notice which requests that vehicles stop behind the line. This has the effect of attempting to ensure that vehicles do not stop and start directly outside the window of the adjoining dwelling in order to reduce the adverse impact on the amenity of the occupier. The Applicant has also installed a new latch/ closing mechanism on the gate which ensures that the gate shuts more easily and does not rattle around in the wind.

The driveway is used by the occupiers of four dwellings and traffic levels are not high. The gate impedes the flow of traffic rather than increases or reduces traffic volume. In view of these facts and the additional mechanisms put in place by the Applicant it is not considered that the level of disturbance can be such as to adversely affect the amenity of the occupier of the adjoining dwelling to the extent where refusal of the planning application would be justified.

### **Recommendation**

**GRANT** permission.

13/01/2004

**Item** 2.1**Reg. No.** 9 2003 1464 F**Applicant:**  
Pleasant Inns Ltd  
C/O Agent**Agent:**  
N Astle  
24 The City  
Woodville  
Swadlincote  
Derbyshire  
DE117DH**Proposal:** The erection of six residential units with associated carparking 1 And 2 The Gatehouse And Part Of Carpark Mount Pleasant Inn Mount Pleasant Road Castle Gresley Swadlincote**Ward:** Linton**Valid Date:** 02/12/2003

Councillor Southern has requested that this application is reported to Committee.

**Site Description**

The site is located between the A444 to the east and the Mount Pleasant pub and associated beer garden/pub car park, which front Mount Pleasant Road, to the south and west. A Public Footpath runs alongside the northern boundary of the site between the A444 and Mount Pleasant Road. A close-boarded fence forms the boundary between the site and the A444 and the site and the pub car park/ garden.

There is currently an outbuilding on the site as well as a pair of semi-detached dwellings, which are unoccupied, and in a poor state of repair. There is a vehicular access from Mount Pleasant Road to the dwellings.

**Proposal**

The application proposes the construction of six dwellings, three pairs of semi-detached three-storey houses. The dwellings would front onto a footpath, which would be created adjacent to the grass verge alongside the A444, and the rear garden areas would be located between the dwellings and the pub building/ car park. Plans indicate four parking spaces between the pub building and the northern boundary of the site served from the vehicular access to Mount Pleasant Road as well as 24 parking spaces within the pub car park.

## **Applicants' supporting information**

The planning application is for the erection of six residential units on the site of two derelict cottages and also part of the car park to the public house. The remainder of the car park will accommodate car parking for both the units and the public house with another four car parking spaces accessed off the private drive/ footpath to the North of the public house.

The existing public house premises are to be retained and it is envisaged that 22 parking spaces are to be provided for use by the public house and 6 car parking spaces for the new residential units.

The public house has a total of 115 sq metres of bar area and, therefore, 28 car parking spaces should be provided solely for this purpose based on the usual car parking standards of 1 per 4 sq metres of bar area. Due to the fact that most people walk to the public house and that there is hardly any passing trade (i.e. vehicular custom) as it is not situated on a main road, it is my considered opinion that the usual car parking standards should not apply in this case and that a minor relaxation of these standards would be appropriate.

## **Responses to Consultations**

The County Highway Authority recommend refusal of the application on the grounds that the access is substandard in terms of visibility, that there is inadequate parking provision, that the proposal would create a conflict between vehicles and pedestrians on the footpath to the detriment of highway safety and that the development would increase the likelihood of vehicles parking on the A444.

Severn Trent Water has no objections to the proposal.

## **Responses to Publicity**

None received.

## **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policies 4 and 8

Emerging Local Plan: Policy H1 and ENV 21

Supplementary Planning Guidance: Housing Design and Layout

## **Planning Considerations**

The main issues central to the determination of this application are: the principle of residential development in this location, access and parking arrangements for the site, the design and appearance of the dwellings and their impact in the landscape/ streetscene.

## **Planning Assessment**

The application site is located outside the Swadlincote Urban Area where new residential development is unacceptable in principle in line with the provisions of Housing Policy 4 of the adopted Local Plan and Policy H1 of the Draft Local Plan. The only type of residential

development that would be acceptable on this site in accordance with local plan policies would be the replacement of the existing dwellings with two new dwellings of equivalent form and bulk on substantially the same site as the old. The scheme proposes the development of four additional residential units which is clearly contrary to the above planning policies.

The County Highway Authority have objected to the scheme on the grounds that access to the site is substandard in terms of visibility and that increased use of the access would be detrimental to highway safety as well as lack of adequate parking provision and the potential for conflict between vehicles and pedestrians on the adjoining public footpath. Only four parking spaces have been dedicated for the dwellings and another twenty four are to be shared with the pub.

The proposed dwellings are three-storey with dormer windows on both the front and rear elevations. The design and appearance of the dwellings are considered acceptable but the development is unacceptable in principle and three storey properties in this location will be very prominent in the landscape and streetscene. Ground levels on the site are between 1 and 2 metres above the level of the A444 and the dwellings would be 10 metres from the road. Other dwellings along Mount Pleasant Road are located much further from the A444 and the proposed houses would be very prominent in the streetscene. Many dwellings which front Mount Pleasant Road have large side and rear garden areas and this tract of land between the A444 and Mount Pleasant Road has always been protected from development by being excluded from a defined development boundary in the Local Plan. To allow this current development proposal would therefore undermine the case for maintaining a consistent approach to development on the A444 frontage.

The proposed dwellings are sited far enough from the adjoining dwelling to comply with the distance requirements outlined in the Supplementary Planning Guidance however the dwellings would be sited too close to the pub building and the minimum distance of 12 metres between proposed rear windows and the pub building would not be met. The proposed dwellings would not have adequate garden lengths or area and the proposed layout would not meet the Space About Dwellings standards outlined in the Supplementary Planning Guidance on Housing Design and Layout.

### **Recommendation**

**REFUSE** permission for the following reasons:

1. The application site is outside the Swadlincote Urban Area where new residential development is unacceptable in principle and contrary to the provisions of Housing Policy 5 of the Joint Structure Plan, Housing Policies 4 and 8 of the adopted South Derbyshire Local Plan and Policies H1 and ENV 21 of the Revised Deposit Draft South Derbyshire Local Plan.
2. Approval of the proposal would result in a substantial increase in vehicular use of the access which is substandard in terms of visibility contrary to the best interests of highway safety.
3. Approval of the proposal would result in an increase in the vehicular use of the access which also carried the route of a public right of way, as shown on the Definitive Map, increasing the potential for conflict between vehicles and pedestrians to the detriment of highway safety.

4. The proposed dwellings would be sited too close to the existing pub building and the proposed amenity/ garden areas would be inadequate in terms of length and area to the detriment of the future occupiers of the dwellings. The development would not comply with the Space About Dwellings standards set out in the Supplementary Planning Guidance: Housing Design and Layout.
5. The proposed dwellings by virtue of their siting would be prominent in the streetscene and landscape and the development would be detrimental to the character of the area and contrary to the provisions of Policy H1 of the Revised Deposit Draft South Derbyshire Local Plan.



## APPEAL ALLOWED

Appeal by Mr Thompson

The erection of two dwellings with garages at Cedar Farm Dalbury Lees Ashbourne (9/2003/0548)

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

1. *Lees is a settlement that currently has a village confine under the terms of Housing Policy 5 of the adopted South Derbyshire Local Plan. Following the publication of Planning Policy Guidance Note 3 and receipt of post PPG3 appeal decisions, the Council adopted a Sustainable Settlement Hierarchy. This was used as part of the review of the Local Plan, to identify those settlements that had a range of services within them that would support further residential development. Lees, whilst having some of the necessary services, was one of the villages that had its village confine withdrawn and was identified as a location where limited frontage infilling would be permitted on brownfield land. Policy H1 of the replacement South Derbyshire Local Plan refers. The application is considered unacceptable, as the development would involve development in depth, not frontage infilling as defined in the policy. The proposal would therefore lead to additional residential development in an unsustainable location that is contrary to the advice contained in PPG3: Housing. It is also contrary to the following policies that have been prepared in accordance with that advice: General Development Strategy Policy 1: Sustainable Development of the Derby and Derbyshire Joint Structure Plan and Policy H1 of the replacement South Derbyshire Local Plan.*

The inspector considered the main issue to be whether the proposed dwellings would represent unsustainable development in the light of national and local policies.

The inspector noted General Development Strategy Policy 1 regarding sustainable development and Policy 5 of the Structure Plan which aims to accommodate new housing within the village confines as defined in the Local Plan. Lees is defined as a village where new housing development can be accommodated within the village confines by Policy 5 of the Local Plan but Policy H1 of the emerging Local Plan restricts residential development to 'no more than two dwellings on a brownfield site to fill a gap in an otherwise built up frontage.'

The inspector noted the objections of the Parish Council regarding highway issues and the importance of the open space within the village but considered that the proposed dwellings would make good use of the land and relate well to the surrounding development. The comments of the occupier of the adjoining house regarding the effects of shading to the proposed properties from existing trees and the potential loss of privacy to the Sunningdale gardens from the proposed first floor windows were not considered sufficient aspects to dismiss the appeal.

The inspector considered the proposals complied with the Development Plan.

The inspector noted the views of the Council saying that this is not an infill site because the dwelling on Plot No 2 would be set back from the highway and would result in development in depth which would not be in accordance with the emerging Local Plan Policy H1 which relates to infill frontage, a policy which was brought about by the emphasis on sustainability in the current PPG3. However, the inspector concluded that this is an infill site with a frontage to the public highway and that the proposed dwellings would take their access off a new access road associated with the farm redevelopment which proposes to join the highway.

He considered that there was nothing in PPG3 to indicate that frontage development is acceptable whereas development in depth is not.

In consideration of the above the appeal was allowed.

