

22/03/2005

Item 1.3**Reg. No.** 9/2004/1628/F**Applicant:**

M Najib & Sons
The Abattoir
Church Broughton Road
Foston
Derby

Agent:

Dickinson Building Design
24 Rectory Lane
Bredsall
Derby
DE24 5LL

Proposal: The erection of an extension at The Abattoir Church
Broughton Road Foston**Ward:** North West**Valid Date:** 06/01/2005

This application has been brought to Committee on the instruction of Councillor Bale.

Site Description

This is a basically level site served off Church Broughton Road. A low hedge encloses the road frontage. Along the south side of the site there is fence with some tree planting on the field side of the boundary. A public footpath follows the north boundary of the site along which is a high hedge that currently screens the site from that direction. There is a fence along the east boundary.

Proposal

The proposal is for a small addition to the existing canteen facilities at the site that would allow segregation of slaughter workers from loading workers when they are taking breaks. It would be a flat roof extension built in brick to match the existing brickwork on the site

Planning History

Outline planning permission for the erection of a replacement abattoir was granted in 1989. Details for the development were approved in 1993 and an application to extend the premises was granted in 2001 along with the retention of three silos at the site.

Responses to Consultations

Hatton Parish Council has no objections or comments.

The Head of Environmental Health has no objection.

Responses to Publicity

Five letters/e-mails and a petition signed by 39 persons objecting to the development for the following reasons: -

- a) The additional floor space would allow the further expansion of the business. The business has expanded greatly in the past and this has resulted in unsuitable traffic using the road. This is a narrow country lane and is unsuitable for the traffic now using it. Lorries park in front of the gates, when they are shut, causing an obstruction.
- b) There is also reference to noise arising from the site particularly when lorries park with their motors running.
- c) The smells from the site are appalling. It is understood that the owners are not very co-operative with Environmental Health in complying with its requests for improvements.
- d) The obstruction of the public footpath that follows the north site boundary is also of concern. People using the path are distressed to see animal skins and offal being kept in open storage containers. Photographic evidence of this has been submitted. These containers are loaded by buckets attached to the front of tractors and there is concern that users of the footway may not be seen.
- e) The impact on the drainage ditch that also follows this boundary arising from run-off from the site is also an area of concern.
- f) There are rats and other vermin.
- g) The dogs on the site run loose and appear to have access to the public footpath to the rear of the site.
- h) The owners have purchased/rented more land and clearly intend to increase their operations.
- i) The site notices have been removed within a week of being erected otherwise there would have been more objections

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 4

Local Plan: Employment Policy 1

Emerging Local Plan: Policy EMP 2

Planning Considerations

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

- The Development Plan
- The impact on the area
- Traffic generation

- The impact on the adjacent footpath

Planning Assessment

In terms of the development plan, the proposal would be for a small extension of the business to accommodate additional canteen space. Extensions to existing businesses are allowed under the above mentioned policies provided that the development would not have unacceptable traffic, noise or smell impacts on the local area.

This is an application for the addition of a small office/canteen extension. The highway issues raised by the objectors have to be assessed on the basis of the impact of the current proposal. It is unlikely that the traffic generated arising from this application would constitute a material consideration that would outweigh the presumption in favour of the expansion of businesses expressed in the above mentioned policies.

On the advice of the Environmental Protection Manager, noise and smell issues are equally not capable of forming a material consideration against this proposal.

The footpaths officer has responded to the complaints about the footpath and has indicated that the unannounced site visit he recently undertook revealed no obstructions.

Whilst there is concern about the presence of the abattoir it is an established use at the site and the minor extension is required to be examined on its own merits rather than what might happen that would have to be assessed separately in response to a subsequent planning application.

Officers are investigating the current condition of the site to ascertain if action through the use of the enforcement powers is required. This would be the subject of a separate report once investigations are completed.

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.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
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.

22/03/2005

Item 1.5**Reg. No.** 9/2005/0079/U**Applicant:**

Harding & Son
Newlands Farm Hatton Fields
Hilton
Derby
DE65 5GQ

Agent:

P. Diffey
Peter Diffey & Associates
Cotesbach Villa
54 Woods Lane
Stapenhill
Burton On Trent
DE15 9DB

Proposal: The change of use from agricultural building to warehouse/storage with car parking and service area at Newlands Farm Hatton Fields Hilton Derby

Ward: North West

Valid Date: 24/01/2005

Site Description

The site comprises an agricultural building on the site frontage. (Photographs of the building are available for inspection on the file). To the south of the site is a brick built farm building and beyond that is a leylandii hedge some 5 metres high. This is located on the neighbours' side of the fence. On the road frontage is a hedge with the occasional tree within it. The remaining boundaries are open to the rest of the farmyard. Other agricultural buildings of a similar type are visible within the yard.

Proposal

This is as described above and in the supporting information below.

Applicants' supporting information

The farm is a mixed agricultural unit. The building is currently used to house cattle. Cattle operations are to be greatly reduced and the building will become surplus to the needs of the farm. The changes are necessary to improve the economic viability of the farm. The proposal is to introduce an alternative use for the building.

The building has been in place for some 15 years. It is steel framed with block work walls and the roof covered in grey fibre cement sheets. Parts of the building would have to be replaced with a more acceptable material if the application were to be approved. Other alterations would be the provision of four doors to provide pedestrian and emergency access to the building.

Access would be from the adjacent highway that was substantially improved when the A50 was constructed. The access width, construction and visibility are such that they exceed the County Highway Authority requirements. The existing yard would provide a service yard and turning area; parking would be provided adjacent to this to a higher standard than is required by parking advice at the current time. Surface and foul water drainage could be dealt with by condition.

The proposal accords with the latest government advice contained in PPS 7 that encourages the commercial reuse of suitable buildings in the countryside additionally, it is reasonably close to a major transport route. Local Plan policies also support the reuse of buildings in the countryside, as does the Council's Supplementary Planning Guidance – Industrial and Office Design and Layout. It requires that the elevations should not be substantially changed.

For the above reasons the applicant contends that the proposal complies with policy and is generally acceptable.

Planning History

The farm house was originally sited to the south of the complex, it was replaced by a new dwelling in 1984 following the grants of planning permissions in 1983 on land to the north of the complex. A second dwelling was permitted in 1997 with details approved in 1999. Both these dwellings are subject to agricultural occupancy conditions. The planning history of the building is unknown.

Responses to Consultations

Hatton Parish Council has commented that the development is close to a dwelling and there is concern that the use may cause noise and other nuisance. The actual use is not clear and there is concern about the potential increased traffic on Sutton Lane.

The County Highway Authority states that whilst the junction and carriageway width at the junction of Uttoxeter Road are not ideal, it is considered that the refusal of permission based on a material impact on this junction could not be justified. Thus the principle of converting the building would be acceptable subject to details of the parking and manoeuvring space being provided and no external storage of goods being allowed.

The Environmental Protection Manager has no objection.

Responses to Publicity

8 letters/e-mails have been received objecting to the proposal plus one that sought additional information. The reasons for objecting are as follows: -

- a) The development would erode the rural scene. It falls outside the definition of small-scale development set out in Policy EMP 2 of the emerging Local Plan (1000sqm.). There are several other similar buildings on the site that could develop in a similar way if this proposal was accepted.
- b) The junction of this road with the former A516 is not suitable to accept additional traffic, as it is already a very busy junction.

- c) The actual entrance to the site is close to the junction with Broughton Heath Lane and there would be conflict with traffic seeking to use that junction causing a potentially dangerous situation. Traffic travels at the national speed limit, sometime in excess of it. On the narrow parts of the lane, traffic often has to mount the verge to allow passage. With the high speeds the chance of accidents is increased, animals have already been killed. Several of the existing entrances have restricted visibility when entering or leaving the particular sites. Highways have refused to allow warning signs to be put up
- d) The development would adversely affect the living conditions of the occupiers of the adjacent dwelling through noise fumes and disturbance.
- e) There is insufficient information to judge what the hours of working would be, the proposed numbers of staff, vehicles loading and unloading and staff levels and parking requirements. 21 parking spaces would seem to indicate significant levels of traffic and this would adversely affect the living conditions of the occupiers of the adjacent dwelling. This is a speculative venture designed to see what can be accommodated, thus there is no immediate demand for the building to be used for warehousing. It could be that the site would operate 24/7.
- f) The references to PPS 7 do not refer to the need to limit excessive expansion and encroachment of building development into the countryside and the need expressed in the guidance that Authorities should have regard to the amenities of nearby residents that may be adversely affected new types of on-farm activities.
- g) The proposal is contrary to Policies ENV 15 - Noise, T1 - Transport and New Development, T5 - Public Transport, T9 - Car parking and EMP 1 being only 2 km from Dove Valley Park allowing this would be contrary to the principle of allocating future employment growth to specified areas. Major refurbishment of the building would be required to bring it to a reasonable standard
- h) The development would also be contrary to Economy Policy 5 in the structure plan, which states that new uses such as this will normally be permitted where injury is unlikely to be cause to local amenities or the environment.
- i) The proposal may have an adverse impact on protected species with the potential loss of feeding areas.
- j) Other development proposals have been refused in the locality, this one should be treated the same as the use is inappropriate to the rural area.
- k) The service area implies that diesel fuel would be stored on the site and this would be a potential source of pollution.
- l) No site notices have been erected so fewer people have objected to the proposal than would have been the case.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4,

Local Plan: Environment Policy 1, Employment Policy 4,
Emerging Local Plan: Policies ENV 7, 21, & EMP 2.

Government Advice and Supplementary Planning Guidance:
Planning Policy Statement 7 – Sustainable development in Rural Areas
Supplementary Planning Guidance – Industrial and Office Design and Layout.

Planning Considerations

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

- The Development Plan
- Government Advice and Supplementary Planning Guidance
- The impact on the countryside
- Highway considerations
- The impact on neighbours

Planning Assessment

The development plan makes provision for the conversion of redundant agricultural buildings to alternative uses. PPS 7 states that the reuse for economic development purposes take precedence over other forms of use but it does not exclude reuse for residential purposes where that use is appropriate to the type of building and within the constraints set out in PPG 3. PPS 7 is mindful of the need to locate such development in sustainable locations close to villages and larger settlements.

Similar advice was present in the predecessor document PPG 7 when an appeal was heard for agricultural buildings at Sapperton Manor. In that case the building was clearly capable of conversion without significant alteration and the Inspector found that its reuse in a much more remote location was suitable and sustainable and pointed out that sustainability was more than just access to transport links. The impact on the area was equally important and the lost employment opportunities in the locality arising from changes to the agricultural industry. In that case the inspector found that the presence of a replacement employment opportunity for local people outweighed the harm that may be caused from allowing the building to be reused.

In this case the site is not far from Hatton Village, and there is a bus route along the former A516. The access to the site is via Sutton Lane which although is narrow at its southern end, in the vicinity of the site, has been significantly widened (as described by the applicant).

The County Highway Authority has raised no objection in principle but would want to ensure that subsequent access requirements are controlled. This could be achieved through the use of conditions. The objections raised on highway grounds would be difficult to sustain at appeal as identified by the County Highway Authority. The Inspector in the Sapperton case found that road width was not an issue where the lanes to and from the site are much narrower. He found that the forward visibility along those lanes was such that traffic should be able to pass with care. He also gave weight to the traffic generated by the farm when it was in full operation.

The lane to Uttoxeter Road is much wider in the vicinity of the application site and is straight all the way to the junction. It is acknowledged that the bridge 'obscures' visibility but the lane in the vicinity of the bridge is wide.

In terms of the visual impact on the countryside, the building forms part of a much larger group and these buildings already have an impact on the character of the area. As stated by the applicant some works of rebuilding and recladding would be necessary if the building is to be brought to a standard where it would be suited to use for storage. The current cladding is grey in colour and a more sympathetic colour may improve the appearance of the site. If more buildings were to be converted then further permissions would be necessary.

The occupiers of the former farmhouse are the neighbours most directly affected by the proposal. There is a boundary building and a line of tall conifers, within the control of the neighbours, which screen the rear of the property. The Environmental Protection Manager has raised no objection to the principle of the use. Any mitigation measures could be controlled through the imposition of conditions. It is proposed that conditions be imposed to require the submission of various details including hours of operation and submission of details of the parking and manoeuvring space such that appropriate measures can be put in place to control the operation of the site. Other conditions relating to the drainage from the building and the precise type of cladding to be used on the building are proposed.

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.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. No part of the building shall be occupied until the Local Planning Authority has given prior written approval of the following details - the details of the cladding to be used on the upper wall and roof of the building, the means of foul water disposal, the means of surface water disposal and the landscaping of the site.

Reason: None of these details have been submitted and whilst the principle of the development is acceptable to the Local Planning Authority, there needs to be a control over the above matters in the interests of the amenity of the occupiers of nearby dwellings and the overall appearance of the area.

3. Before works to replace the cladding on the building, as described in the application, are commenced, details of the parking and manoeuvring shall be submitted to and approved in writing by the Local Planning Authority. Before the building is occupied the approved details of the parking and manoeuvring areas shall be implemented and be thereafter maintained available for their designated use.

Reason: To ensure that adequate parking and servicing provision is available.

4. No deliveries taken at or despatched from the site outside the following times nor at any time on Sundays, Bank or Public Holidays: 0730 - 1830 Monday to Friday, 0800 - 1300 Saturdays.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

5. The use of the premises shall be limited to Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and notwithstanding the provisions of Part 3 Class B(b) of the Town and Country Planning (General Permitted Development) Order 1995 no part of the building shall be changed to Class B1 without the prior written permission of the Local Planning Authority made in response to an application made in that regard.

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. There shall be no goods or materials stored in the open within the areas.

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

22/03/2005

Item 1.9**Reg. No.** 9/2005/0168/U**Applicant:**

Mr N Hodgkiss
 Cuttlebridge Cottage Derby Road
 Swarkestone
 Derby
 DE73 1JB

Agent:

Mr N Hodgkiss
 Cuttlebridge Cottage Derby Road
 Swarkestone
 Derby
 DE73 1JB

Proposal: The change of use from farm land into a drive and garden at
 Cuttlebridge Cottage Derby Road Swarkestone Derby

Ward: Aston

Valid Date: 16/02/2005

The application is brought to Committee on the instruction of Councillor Atkin

Site Description

The site is the corner of a field situated adjacent to the applicant's dwelling and garden.

Proposal

The land would be included in the garden and a new vehicular access would be formed. The existing access, situated closer to the road junction would be closed.

Planning History

An application to retain a boundary fence (involving change of use of highway land) and windows in an outbuilding is presently under separate consideration (9/2005/0011/F).

Responses to Consultations

The Highway Authority has no objection in principle.

The Parish Meeting has not commented.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4
 Local Plan: Environment Policy 1
 Emerging Local Plan: Policy ENV3

Planning Considerations

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

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

Planning Assessment

The proposal would use a small parcel of low-lying land immediately adjacent to the existing garden. As such the principle of the proposal is not in conflict with strategic policies for development away from settlements.

The site would be viewed against the backcloth of the existing garden. Therefore subject to appropriate boundary treatment there would be no significant impact on the character of the countryside.

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

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of the appearance of the area.
4. The access shall not be taken into use until the existing access shown on the submitted plan has been permanently closed in accordance with a scheme first submitted to and approved by the Local Planning Authority.
Reason: In the interests of highway safety.

5. The access shall not be taken into use until the application site frontage has been cleared of all obstructions exceeding 1m in height relative to road level for a distance of 2m from the carriageway edge. Thereafter the frontage shall be permanently maintained free of such obstructions.

Reason: In the interests of highway safety.

6. The access shall be minimum 5m wide for a distance of 5m from the highway boundary.

Reason: In the interests of highway safety.

7. Prior to the first use of the access it shall be surfaced with a solid bound material i.e. not loose chippings, for a minimum distance of 5m from the highway boundary. Thereafter it shall be so maintained.

Reason: In the interests of highway safety.

8. There shall be no gates within 5m of the highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

22/03/2005

Item 1.6
Reg. No. 9/2005/0089/F

Applicant:

Mr M Wilmot
 Slade House Rose Lane
 Ticknall
 Derby
 DE73 1JW

Agent:

Mr. Eric J. Lee
 Pennside
 Penn Lane
 Melbourne
 Derbyshire
 DE73 1EP

Proposal: The erection of a dwelling, the blocking of Rose Lane to Main Street and opening Rose Lane to Ingleby Lane and provision of a turning head on Rose Lane at Slade House Rose Lane Ticknall Derby

Ward: Hartshorne/Ticknall

Valid Date: 24/01/2005

This application has been brought to Committee on the instruction of Councillor Jones.

Site Description

Slade Farm House, a grade II listed building within the Ticknall Conservation Area, is at the end of Rose Lane and on its western side. The site for the proposed dwelling is occupied by a double garage of relatively recent construction which is some 6m from the west side of Slade Farm House and some 11m north of the neighbouring dwelling which was converted from former farm buildings. The site is bounded on its east side by the playground to Dame Catharine School.

The house is set within a large garden, whose boundaries have recently been fenced following the grant of planning permission.

Proposal

It is proposed to remove the existing double garage and construct a three-bedroom, two storey dwelling. The dwelling would be some 6m from Slade Farm House and 18.5m from the neighbouring dwelling. It has been designed to take on the appearance of a traditional farm building converted to a dwelling. The front elevation visible from Rose lane would be single storey in appearance constructed in brick and stone with a large central glazed opening. The building would be L shaped in plan with the front leg 11.8m wide by 5.2m deep by 3.8m to the eaves and 7.3m to the ridge and the rear wing extending to 5.6m by 5.1m wide by 3.8m to the eaves and 7.3m to the ridge. The dwelling would benefit at its front from an existing drive and parking area off Rose Lane.

The Highway Authority has previously discouraged further residential development on Rose lane because of the very sub-standard junction with Main Street. For this reason it is also proposed to reprioritise Rose Lane to ensure that vehicles to the new dwelling cannot use the Rose Lane/Ingleby Lane junction. This will involve the roadblock in Rose Lane being moved from its present position to a position south of the access to the new dwelling. A new turning head would be formed on Rose Lane on the south side of the new road block.

Planning History

Planning permission for a similar development, but including a garage and stable building in the garden to the southwest was refused in March 2004. The reasons for refusal were as follows:

1. The proposed garage and stable building would result in an unacceptable intrusion into an otherwise undeveloped area of open garden land which has been identified in the emerging Local Plan under ENV8 and ENV 20 as an important open space which contributes to the environmental quality of the locality and the Conservation Area.
2. The reprioritisation of Rose Lane would result in a significant increase in traffic movements close to residential occupiers who have become accustomed to the light traffic use of a cul-de-sac bringing an unacceptable and unfamiliar level of noise and disturbance which would be detrimental to occupier's amenity.

An appeal was lodged and subsequently dismissed. The Planning Inspector dismissed the appeal on grounds that the proposed garage and stables building would have an unacceptable detrimental impact on both the openness of the adjoining designated important open space and the character and appearance of the Conservation Area.

In response to the second reason for refusal the Inspector provided the following statement:

“The change to the position of the barrier to through traffic in Rose Lane would result in service vehicles to the school, and traffic generated by the proposed dwelling, using the length of Rose Lane linking to Ingleby Lane. This lane already serves a number of residential properties and the additional traffic associated with the proposed dwelling, and vehicles servicing the school, would be unlikely to result in a significant increase in noise and disturbance when compared with the existing situation. It is to be noted that parents driving their children to school are asked to park in the nearby village hall car park. I noted that this is a well-used facility, people parking here in preference to parking in Rose Lane or Ingleby Lane. The revised access arrangements would include a turning facility that would accord with the current county council highway design requirements.”

“Even if this were not to be the case, and the proposals resulted in a more noticeable level of noise and disturbance, any harm resulting from that loss of amenity would be more than outweighed by the benefit associated with the current use of Rose Lane/Highwayside junction which has seriously substandard visibility for both emerging and near side approaching vehicles. On the second issue I conclude that the proposals would not result in an unacceptable loss of amenity for residents of properties in Rose lane due to increased noise and disturbance from traffic visiting the school or accessing the proposed dwelling.”

Responses to Consultations

The Highway Authority has no objections commenting that it has previously accepted the principle of the development subject to alterations to the highway layout of Rose Lane. It adds that although a recent appeal has been dismissed for planning reasons it is noted that the Inspector indicated that the revised arrangements would result in a greatly reduced risk to motorists and other road users.

The objections of the Parish Council are summarised as follows:

- Adverse effect on the character and appearance of the Conservation Area.
- Important views, trees, gardens, open spaces and boundaries would not be preserved.
- The siting and alignment of new buildings would not preserve historic street patterns and the profile of the townscape.
- The mass, design and height of the new building would not be in scale with and respect the architecture of adjoining traditional buildings and the density and mix of uses would not be in character with the area as a whole.
- The proposal would leave no garages for either dwelling.

Objection to the road reprioritisation of Rose Lane is summarised as follows:

- It is outside the village development boundary
- Approaching traffic from the new direction would not be visible to schoolchildren passed the stone boundary wall.
- The Inspector said the preferred access to the school is via the village hall car park which is not the case and would not be suitable as the junction is in the 60mph zone.
- It is believed that the Inspector did not take into account the 5 dwellings on Slade Farm who rely on Rose Lane for overspill parking as do other residents on the lane. Opening up the lane as proposed would be hazardous to motorists due to the parked cars obscuring visibility
- Large vehicles would erode the grass verge which is an integral part of the conservation area and their removal could affect the stability of the stone wall.
- There is a rose garden that would have to be removed that is maintained by the Parish Council in memory of a local resident.
- The Highway Authority raised no objection to a bed and breakfast operating from Slade House and therefore there should be no problem with an additional two cars using the Rose Lane/Main Street junction.
- No decision should be made until speed checks and traffic volume has been assessed on Ingleby Lane in the interests of highway safety.

Responses to Publicity

Twenty letters of objection have been received which are summarised as follows:

- Proposal would create a vehicle blind spot for school children leaving the play ground entrance
- It would limit access for emergency vehicles
- Possible release of Anthrax spores
- Would not preserve or enhance the character or appearance of the Conservation Area
- Result in loss of green space
- Result in difficult access for the fuel tanker

- The existing and proposed house would be too close to each other
- Loss of existing rose bed.
- Visibility around the Ingleby Lane/Rose Lane junction is often obscured by parked vehicles
- The Ingleby lane junction is potentially more dangerous than the Main Street junction due to traffic volume and speeds and poor visibility
- The proposed dwelling could use the same access now that the bed and breakfast no longer operates from Slade House.
- The Inspector has underestimated the amount of traffic that would be diverted along Rose Lane by the road changes
- Holly trees would need to be removed along the boundary which contribute to the character of the area.
- An alternative should be considered of improving the Rose Lane/Main Street junction.
- It would cause parking difficulties for residents of Rose Lane
- It would cause loss of amenity for residents of Rose Lane
- It would result in danger or pedestrians on a narrow lane that has no pavements in places
- It would breach neighbours human rights under Article 8 of the Human Rights Act.
- Development outside the village development boundary

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5; Environment Policy 9, 10 and 16

Local Plan: Housing Policy 5; Environment Policy 12 and 13; Environment Policy 9

Emerging Local Plan: H1; ENV19; 20 and 21

Planning Considerations

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

- Whether the development preserves or enhances the character or appearance of the Ticknall Conservation Area;
- Impact on the setting of the listed building
- Loss of tree cover
- Impact on highway safety and vehicle accessibility
- Impact on the amenity of neighbouring residents

Planning Assessment

Impact on the conservation area and setting of the listed building

Apart from the building being sited a further 3.5m from the neighbouring house, it is the same as the previous submission (other than the fact that the additional garage and stable buildings are omitted). The Council raised no objection to this part of the development which is considered to be acceptable in design terms and sympathetic to the character of the area.

Loss of tree cover

Two holly trees affected by the development could be retained if desired although their root system is likely to be damaged to accommodate the development. Members previously accepted the view that the benefits to be gained by replacing the existing garage with this more sympathetic building would outweigh any amenity value of the trees and their loss would not be sufficient to refuse the application. The position has not changed in this regard.

Impact on highway safety and vehicle accessibility and Impact on the amenity of neighbouring residents

The Planning Inspector recognised the benefits to highway safety of reprioritising Rose Lane and said "any harm resulting from that loss of amenity would be more than outweighed by the benefit associated with the greatly reduced risk to motorists and other road users". He said that even if parents did not use the village car park when driving children to school this statement would apply.

In view of their being no good reason to the contrary, the advice of the Highway Authority and the contents of the appeal decision should be heeded.

Alterations to the closure of Rose Lane will need to be the subject of an Order under the 1990 Town and Country Planning Act, confirmed and implemented prior to any development being commenced. The Order would be made by the Government Office for the East Midlands.

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.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. The construction of the dwelling hereby approved shall not commence until the highway works have been completed in accordance with the approved plans and to the written satisfaction of the Local Planning Authority.
To ensure the highway works are completed in the interests of highway safety.
3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the buildings 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 the materials are appropriate for the Ticknall Conservation Area and the setting of the grade II listed building.
4. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the buildings would be acceptable for the Ticknall Conservation Area and the setting of the grade II listed building.

5. The precise type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building, the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

6. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

7. External joinery including the boarding to the stable shall be painted timber to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The approved paint shall be applied before the buildings are brought into use.

Reason: To preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number and position of heating and ventilation flues outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of preserving the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

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

Reason: To preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

10. Pointing of the proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

Reason: To preserve the character and appearance of the Ticknall Conservation area and the setting of the grade II listed building.

11. A sample panel of pointing 1 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. The pointing shall be carried out in accordance with the agreed sample panel.

Reason: To preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no development within the curtilage of the proposed dwelling house under Schedule 2, Part 1, Class A, B, C, D, E, H and Part 2, Class A of that Order (except as authorised by this permission or required by any condition attached thereto), without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over any future changes to the dwelling and its curtilage in the interests of preservinf the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

13. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft 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: To safeguard the amenity of the area.

14. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

15. No part of the development shall be carried out until precise details of paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: To ensure the materials are appropriate to preserve the character and appearance of the Ticknall Conservation Area and the setting of the grade II listed building.

16. The windows on the south and west elevations shall be obscure glazed before the development is brought into use and remain as such in perpetuity. The entrance hall window shall be etched glass unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the privacy of occupiers and the use of etched glass in the interests of the appearance of the building.

17. 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.

22/03/2005

Item 1.1**Reg. No.** 9/2004/1212/O

Applicant:
 Ms S Hynes
 477a Burton Road
 Midway
 Swadlincote
 Derbyshire

Agent:
 P. Diffey
 Peter Diffey & Associates
 Cotesbach Villa
 54 Woods Lane
 Stapenhill
 Burton On Trent
 DE15 9DB

Proposal: **Outline application (all matters to be reserved) for residential development with access off James Street (involving narrowing part of James Street) at Land To The Rear Of 477a Burton Road Midway**

Ward: Midway

Valid Date: 13/09/2004

Site Description

This L shaped site, has an area of some 0.25ha and forms part of the rear garden to 477a Burton Road, which is a detached bungalow. It slopes down from Burton Road and is bounded on all sides by residential development.

Proposal

The proposal is in outline with all matters including siting, design, external appearance, means of access and landscaping reserved for subsequent approval.

Access to the site is proposed from James Street, involving the demolition of four garages and the narrowing part of James Street directly to the south of the proposed access to 5.5m wide. The applicant's agent, however, has indicated that alternative access designs are possible.

Responses to Consultations

The Highway Authority requested a site frontage survey in order to demonstrate that an acceptable access can be provided. It added that the narrowing of James Street is not necessarily acceptable. Carriageway narrowing in order to allow development to take place may not be appropriate, particularly when there are implications for on-street parking to consider. Following the submission of the requested survey drawing the Highway Authority has raised no objection to the proposal. It says that "the proposed junction arrangement is not ideal, particularly in terms of the reduction in the James Street carriageway width. However, it considers that an objection to the development on these grounds could not be sustained.

The Primary Care Trust has requested a contribution of £444 per unit to local medical facilities and the Education Authority has requested a contribution of £1,400 per unit.

Responses to Publicity

Eight letters of objection have been received which are summarised as follows:

- If James Street is narrowed safe street parking relied upon by existing residents will be disrupted and possibly prevented
- Parking has always been a problem on James Street.
- Activities at the community hall and church often result in cars parking on the road
- There are often difficulties with access for bin lorries due to insufficient road space. Narrowing the road will make matters worse, including for emergency vehicles.
- Loss of privacy for neighbouring residents.
- The proposed pavement extension will restrict or deny the neighbouring residents access to their property particularly when extra bins are introduced.
- Existing drains will need to be realigned causing inconvenience for existing residents
- The widened pavement could be a gathering point for gangs.
- The extended footpath may interfere with access and parking for the remaining garage.

Structure/Local Plan Policies

Joint Structure Plan: General Development Strategy Policy 1, 2 and 3 and Housing Policy 3, Transport Policy 4.

Adopted Local Plan: Housing Policy 4 and Transport Policy 6. and 11

Revised Deposit Draft Local Plan: H1, T1, ENV21, C3 and C5.

Planning Considerations

- Adequate access and parking
- Loss of amenity for existing residents.

Planning Assessment

The site falls within the definition of previously development land as defined in PPG3 and is within the Swadlincote Development Boundary. It therefore complies with Policy H1 of the emerging Local Plan and is acceptable in principle.

The letters of objection relate mainly to problems of parking and access on James Street and how the development is likely to make matters worse. It would appear that the Highway Authority's decision not to object was a marginal one as it acknowledged that the junction arrangement was not ideal, particularly in terms of the reduction in the James Street carriageway width. Whilst the residents concerns are undoubtedly real, the expert advice of the Highway Authority, upon which this Council relies, is that, on balance, the proposal is acceptable.

With regards to safeguarding neighbours' amenity, this is largely a matter to be considered at the reserved matters stage when the development and its relationship to neighbouring property can be considered in more detail and against the Council's guidance on housing layout and design.

The applicant has submitted a unilateral undertaking to secure the payment of medical and school contributions. A contribution for off-site open space may also be required depending on how many units are built.

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

Subject to the unilateral undertaking being successfully completed to secure the payment of medical, school, and public open space contributions then:

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
 (b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
 Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
 Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Notwithstanding the submitted plans, the proposed access details shall include a detailed design for the new street junction onto James Street. Unless otherwise agreed the design shall include a 5.5m wide carriageway, 1.8m wide footways and 6m radii.
 Reason: In the interests of highway safety.
4. No development shall be commenced until the new street junction has been constructed in accordance with the details submitted and approved in accordance with condition 3.
 Reason: In the interests of highway safety.
5. Prior to the commencement of the development space shall be provided within the curtilage for site accommodation, materials storage, employee/visitor parking and manoeuvring space, and lorry loading/unloading, parking and manoeuvring space in accordance with a scheme first submitted to and approved by the Local Planning Authority. The approved facilities shall be retained free of any impediment to their designated use and throughout the construction period.
 Reason: In the interests of highway safety.
6. The internal layout of the site shall accord with the County Council's Roads in Housing policy document or other national design guidance.
 Reason: In the interests of highway safety.

7. No development shall be commenced on site in connection with this approval until details of the means of disposal of highway surface water drainage via a positive, gravity-fed system to an approved outfall (highway drain, public sewer or watercourse sanctioned by the Highway Authority, Water Company or Environment Agency respectively) have been submitted to and approved by the Local Planning Authority. The scheme shall be constructed in accordance with the approved details prior to the first occupation of any dwelling on the site or in accordance with such other programme of works as may be agreed in writing.

Reason: In the interests of highway safety.

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

Reason: To ensure the materials are appropriate to safeguard the appearance of the area.

9. Further to condition 2 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

10. 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.

11. No development shall take place in connection with this approval 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.

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

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

13. 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 levels.

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

14. 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.

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.