

**APPEAL STATEMENT AGAINST THE DECISION OF SOUTH DERBYSHIRE DISTRICT COUNCIL TO
REFUSE PLANNING PERMISSION FOR A NEW HOUSE IN THE CURTILAGE OF THE FORMER
PACKHORSE INN, KINGS NEWTON (SDDC REF. 9/2015/1064)**

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1. BACKGROUND AND SUMMARY

1.1 This appeal relates to South Derbyshire District Council's refusal of planning permission for a new dwelling on the car park of the former Packhorse Inn at King's Newton.

1.2 The Packhorse Inn was first designated as a Grade 2 listed building on 11th March 1987. It is at the west end of the King's Newton Conservation Area, originally designated 12th February 1969 and extended 12th July 1979 to take in the parkland behind King's Newton Hall (see Figure 1). The Packhorse site was part of the original designation in 1969.

1.3 Given its strategic location on a former packhorse route, the Packhorse may have been a public house right from the time of its initial construction some 330 years ago or more, and remained in that use until February 2014. An initial conversion scheme submitted in May 2014, to divide it into two houses (SDDC refs. 9/2014/0478 and 0485), was withdrawn. Listed building consent and planning permission were subsequently granted in May 2015 for its conversion, extension and alteration as a single dwellinghouse (SDDC refs. 9/2014/0838 and 0850). The opportunity was taken in these proposals to undo some damaging changes made to the building in 1970 by the Brewery Company that then owned it. The work is now under implementation, with some authorised minor amendments (SDDC refs. 9/2015/1021 and 1076), and is well advanced.

1.4 The site was originally a thin sliver of land running north-south alongside Packhorse Road, from which it was taken and enclosed before 1687, probably by the Cartwright family (see Figure 2). The appeal site was not then part of the property but, conversely, the site formerly included the adjacent house to the south, now known as the Old Alehouse. This was apparently once an outbuilding of the Packhorse, which was converted and altered centuries ago to provide another house. As an encroachment onto the public highway, the site and buildings on it belonged to the Earl of Huntingdon of Donington Park, Lord of the Manor of Melbourne, and the Cartwrights paid a nominal annual rent by way of acknowledgement.

1.5 The Packhorse became a freehold property of the Ince family by an exchange agreement with the Lord of the Manor in 1791, and further land was added to the curtilage at the same time, to provide a yard or garden at the back. But it did not include the present appeal site until the 20th century. The property was eventually bought by Altons Brewery Co. in 1898; they immediately added a substantial single storey wing at the rear as a smoke room, but only later acquired further land from a neighbouring field to the west, including the current appeal site. This later acquisition became the car park (see Figures 3 to 7).

1.6 The site is currently not within a settlement boundary, but there has been a recent sea change in its physical and planning context owing to the Council's approval of 66 houses on the land adjacent, which is the Charles Church "King's Croft" development. As a consequence of this, the Council proposes to include the appeal site within the Melbourne settlement boundary (see Figure 8), which is directly contradictory to the Council's own assertion that it is an important and open gap site. There was no precedent or imperative for its inclusion, had the Council wished to exclude it.

1.7 Although Part 2 of the Local Plan is only in draft form, it is well advanced and the consultation exercise in respect of it has been completed. More importantly, the proposed alteration to the Melbourne settlement boundary is not proposed to facilitate any aspirational development; it

merely keeps abreast of a change that is fact and has already happened. The adjacent new housing was permitted while the Council's Local Plan was out of date and a five-year housing supply could not be demonstrated.

1.8 The proposal to build a new house on the car park was first submitted on 17th July 2015 (SDDC ref. 9/2015/0663) and was withdrawn on 1st September 2015 following adverse conservation officer comment. In summary, the conservation officer considered that the application site was significant as an open gap site providing a setting to the Packhorse, and that the new house, particularly its garage, would harm the heritage asset by infilling the gap.

1.9 A revised proposal (SDDC ref. 9/2015/1064, subject of this appeal) was submitted on 10th November, 2015. It comprised a lower house of vernacular proportions and a footprint respectful of the conservation area in general, with generous open space in front, a building line that respects the orientation of the neighbouring houses to the west as yet unbuilt, and an open aspect to the road. The detached garage, which was particularly objected to, was removed and incorporated within the main building instead. The new scheme was designed to be read with the Packhorse as a single built group, and this design principle was reinforced by the provision of a single vehicular access point serving both properties.

1.10 The conservation officer again objected (see Appendix 4). While he noted the "welcome" set back of the house and its more open frontage, his primary objection was that the new house was large and would be visible over the roof of the listed building in views from the east. This was a new concern, not raised with the previous proposal which had in fact been taller. He again objected to infilling of the gap between the Packhorse and the new housing estate to the west.

1.11 The point about visibility from the east was taken to heart and addressed, and the levels were adjusted so that the new roof would no longer be visible above that of the listed building. Amended plans were accordingly submitted on 11th January 2016, but the application was nevertheless refused on 1st February 2016.

1.12 Two reasons for refusal were given (see Appendix 1). The first was concerned with the size and scale of the proposal, and the second was concerned with the principle of development. The second refusal reason was in fact a little confusing and ambiguous; it cited Saved Housing Policy 6 favouring infill, but also cited Saved Environment Policy 8 which seeks to preserve significant open spaces, gaps and breaks. It reasoned that the proposed house was "cramped and urbanising" and would thereby remove the appearance of a gap, but in citing the contrasting policies did not make it entirely clear whether the house was refused on principle or simply because it was considered too big.

1.13 Neither of the policies quoted seemed to fit the context. The infill policy does not ring true because the appeal site is not a gap within a small group of houses outside a settlement, and never was; it is in fact a space within a settlement, although this fact is not yet formally recognised. Saved Environment Policy 8 relates to significant open spaces, gaps and breaks, and yet neither the Council's proposed settlement boundary nor its adopted conservation area character statement acknowledges the appeal site as one of them.

1.14 The appellant considered applying for a smaller house. But before investing effort and expense in a third proposal, he wished to discover whether the District Council would in fact entertain it, or would rule it out on principle. This point was therefore taken up with Katie Moriarty of the District Council, who by email on 23rd March 2016 gave a clear opinion that “any kind of residential scheme on the site, no matter how small would not leave a sufficient gap between the proposed dwelling and the surrounding development. Therefore, I think that the principle of a residential scheme would be unsuitable in this location” (see Appendix 2). It is notable that the Council uses the phrase “surrounding development”. This is not a gap between developments; it is a space among surrounding development, where infill is normal.

1.15 Given the Council’s stance, the decision was taken to appeal the refusal notice relating to application 9/2015/1064.

1.16 The reasons for refusal, and the underlying conservation officer comments, are further explored in the remainder of this appeal statement. The model used in the analysis is derived from the English Heritage guidance on the setting of heritage assets, which recommends a five stage process:

Step 1: identify which heritage assets and their settings are affected

Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s)

Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance

Step 4: explore the way to maximise enhancement and avoid or minimise harm

Step 5: make and document the decision and monitor outcomes

The model is used twice in this document, firstly focusing on the conservation area as the heritage asset, and then focusing on the listed building as the heritage asset. Steps 4 and 5 have been omitted, as step 4 was considered as part of the design process in step 3, and step 5 is a local authority function.

2. THE CONSERVATION AREA

The heritage asset, with special reference to the appeal site

2.1 King's Newton was a planned new settlement within the Royal manor of Melbourne, and was probably laid out in the 12th century with prospective house plots on the north and south sides of Main Street. The origins are obscure and a matter for informed reasoning, as no documentary evidence has come to light concerning its foundation. It never developed to its full potential and showed signs of shrinkage by the 17th century.

2.2 At the west end of the village, the shrinkage process was apparently hastened by deliberate removal of houses near the Hall, to give it greater space and an improved outlook as it grew in status under the Hardinge family's ownership. Remains of long-gone buildings remain built into the park wall west of the Hall, and the Hall itself and its gardens appear to mark the sites of multiple previous dwellings.

2.3 The important gap in the frontage opposite the Hall, on the south side of the street, albeit now marred by two modern houses, may also be a result of deliberate clearance to improve the Hall's outlook over open countryside to the south.

2.4 The documentary evidence is hard to pin down but supports, at least to some extent, the physical evidence that the Hall swallowed up neighbouring property. For instance, "Greenold's house" was certainly on the Hall site, as the title deeds state that it was where the summer house now stands at the Hall, and that it was bought by Robert Hardinge in 1658. In 1716 John Hardinge of Kings Newton Hall acquired at least three vacant house plots by exchange with Thomas Coke of Melbourne¹. We do not know the exact locations of them, but the evidence suggests that they were contiguous with one another and in King's Newton², which would make sense.

2.5 The open parkland on the declivity north of the hall was forged from land acquired by Robert Hardinge mainly in 1649-50 by a series of exchange agreements³. The park wall and open pastureland behind it, with a high degree of public access and "permeability", contrasts markedly with the modest and densely-arranged cottages on the south side of the street.

2.6 The removal of buildings on the north side of the street, where the park wall now runs, probably occurred over a much more extended period. The process is hard to chart as there is no detailed plan of the village earlier than 1787. The shrinkage of the village and growth of King's Newton Hall was a process that was well-advanced or near-complete before there was ever any building on the Packhorse site.

¹ Melbourne Hall Muniments 14/11/15

² They were exchanged for houses in Melbourne, thereby consolidating Thomas Coke's estate, so it is logical that the house sites acquired by Hardinge would be in King's Newton, consolidating his own estate there. The former occupants of three of the house sites conveyed to Hardinge are named as Thomas Draper, John Birch and William Addleton, who appear in the same order in the Melbourne census of 1695, in the part of the census that appears to relate to Main Street, King's Newton. The census gives no addresses, so the census-taker's route can only be roughly charted by knowledge of the families that are known (though other evidence) to have lived in certain identifiable houses at the time.

³ Melbourne Hall Muniments 15/1/2-6

2.7 The village retains a great sense of antiquity; it retained its character as an agricultural village interspersed with gentry houses while nearby Melbourne underwent a transformation into a Victorian manufacturing town. Aside from the maintenance, replacement and improvement of buildings, there were few changes in Victorian King's Newton besides the coming of the railway and a brickyard alongside it in the 1860s/70s, and the gutting of the Hall by a serious fire in 1859.

2.8 This absence of Victorian development means that the village has retained a large number of timber-framed and stone houses from the pre-Industrial era, and these remain the basis of its identity and character.

2.9 At the north, west and east ends of the village there were a few isolated houses encroached on slivers of land taken from the highway. Roadside encroachments like these, on the peripheries of villages, are a familiar South Derbyshire phenomenon of the 17th and 18th centuries, and the former Packhorse Inn stands on one of them.

2.10 The character of the conservation area is explored in greater detail in the District Council's character statement adopted in 2011 and in a complementary history of the conservation area published by the Council in 2005.

Significance of appeal site to the Conservation Area and its setting

2.11 The District Council considered, in its pre-decision comments, that "The significance of this part of the conservation area is that it is an open gap site providing a setting to the Pack Horse. The proposal would cause harm to the heritage asset by infilling this gap and impact on views of the asset from the east and west. We do not believe that the justification for the proposed dwelling outweighs the harm or that it provides public benefits." (NB These comments were written before the issue of the view from the east was addressed with amended plans).

2.12 To support its stance, the Council refers to the adopted conservation area character statement, and says:

"Open space and gap sites are important within the Kings Newton Conservation Area and the importance of these gaps sites is noted within the appraisal document. In particular it states that one of the characteristics of the conservation area is 'a place of strong contrasts between structures and spaces.' It is this visual interest and variety which is noted as being of particular importance."

We do not question that open spaces and gap sites are important to the conservation area, and indeed have underlined this quality with the brief description of the conservation area as given above, particularly with relevance to King's Newton Hall. But we do seriously question whether the appeal site is such a space. We base this opinion on the following considerations:

2.13 The Conservation Area appraisal document observes in its opening summary that King's Newton is "a place of strong contrasts between structures and spaces, building materials and the natural environment". However, the detailed text further on in the document is quite specific regarding the locations of significant spaces. It lists the crofts on the south side of Sleepy Lane and behind nos. 71-81, Main Street, the gap between nos. 46 and 54, Main Street, and the crossroads at the Cross. The park behind the Hall, with views and footpaths across it, is also singled out as one

would expect. There is nothing mentioned of relevance to the appeal site, in either a specific or general context.

2.14 To further underline this point, it should be noted that the settlement boundary for King's Newton, both as existing and as proposed in the draft Part 2 of the new local plan, excludes all the gaps and spaces that the conservation area character statement regards as significant. The Part 2 explanatory notes are quite clear about the reasoning for excluding or including various pieces of land, depending whether they relate principally to the built form or to the countryside. Written reasoning is offered for minor alterations to the boundary even when they involve a change of only a few feet. Part 2 has been out to consultation but is not yet adopted.

2.15 By contrast, it should be noted that the draft Part 2 of the Local Plan proposes to include the appeal site within the Melbourne settlement boundary. Previously the site was outside of any settlement boundary, but the proposal acknowledges the fundamental change to the environment of the Packhorse that has been brought about by the approval of the neighbouring Charles Church "King's Croft" development of 66 houses (see Figure 9). The former Packhorse car park, referred to by the conservation officer as a significant gap or space, has not been excluded from the settlement confine.

2.16 Although the new settlement boundaries have not yet been adopted, the Council's considered point of view is very clear from the consultation documents. Given that even the most minute proposed changes to the settlement boundaries are reasoned and explained in the Part 2 document, it would appear that the former Packhorse site and adjacent frontage to King's Newton Lane have been consciously considered for inclusion. The conservation officer comments about the value of the appeal site as a significant "gap site" are therefore not congruent with the Council's stance as set out in the draft Local Plan. One would expect the Local Plan to take account of any such qualities, as indeed it does.

2.17 Finally, it is suggested that the appeal site was only included in the conservation area because its boundaries provided the nearest physical points of reference for the boundary to follow, which is quite understandable. It is generally acknowledged as good practice for conservation area boundaries to follow identifiable limits on the ground. There is no other apparent reason for its inclusion, and it is not apparent that the land was included for any intrinsic quality or function.

Impact of proposal on conservation area and its setting

2.18 Reason 2 of the refusal notice states:

"Saved Housing Policy 6 of the South Derbyshire Local Plan 1998 supports the infilling of a small gap for housing development, for normally not more than two dwellings within small groups of houses, subject to it being in keeping with the scale and character of the settlement, whilst saved Environment Policy 8 seeks to preserve open spaces, gaps and breaks in development which contributed to the character of a settlement. The proposal would exhibit a cramped and urbanising appearance within its plot and consequently would result in the consolidation of the existing built form in this rural area, closing this clear break which contributes to the wider setting of the site and its position within the settlement; contrary to saved Housing Policy 6 and Environment Policy 8 of the South Derbyshire Local

Plan 1998, emerging policy BNE1 of the South Derbyshire Local Plan Part 1, and chapter 6 of the National Planning Policy Framework.”

The value of the “break” and its contribution to either the setting of the conservation area or the listed building are not well explained by the Council. The important contribution of the former Packhorse Inn upon the character of the road junction and views from the east is self-evident and is not in contention, but as seen from the west its main contribution is to form a pinch point at the entrance to the village, a quality which would remain unaffected by the appeal proposal. It does not, in our opinion, “frame” the entrance to the village; it is in fact much more conspicuous in the exit from the village, a characteristic which would remain unchanged by the appeal proposal.

2.19 It is not at all clear that the existing break provides a strong sense of openness, rural character or intrinsic attractiveness. It is a blank area of tarmac adjoined by the listed building to the east, a mature garden to the south, and high bunding around the new SUDS pond to the west which restricts the views over the appeal site. Despite a long frontage to the road, the appeal site is therefore quite enclosed and certainly has a feeling of belonging to the settlement rather than the surrounding countryside. Its proposed inclusion within the settlement boundary acknowledges its status as part of a well-defined property curtilage that has changed in character as a result of the neighbouring housing development.

2.20 The Council is quite clear (Draft Local Plan part 2 page 3) that:

“Settlement boundaries define the built limits of a settlement and distinguish between the built form of a settlement and the countryside. Areas outside of settlement boundaries are considered to be countryside. There is a presumption in favour of sustainable development (subject to meeting other material considerations) within settlement boundaries, whereas in the countryside a more restrictive policy applies.”

The District Council’s comments and refusal notice appear to suggest that some kind of a buffer is needed between the listed building and the adjacent new development, but the reasoning for it is not well explained. A sense of space to the new development has been provided by it being set back beyond the SUDS pond, and the appeal proposal is positioned to broadly line through with the new development without appearing overly formal or self-conscious about it.

2.21 Given today’s emphasis on making new development locally distinctive and well-integrated into the environment, it is unclear why the District Council would wish there to be some kind of “cordon sanitaire” to prevent the new and old developments meeting. The set-back of the new development is respectful of the Packhorse’s role in providing a pinch point at the village entrance, and the distinction between new and old areas of development will remain readily apparent in the form, materials and layout, just as the 1940s houses opposite the Packhorse are distinct from the older properties adjacent to them. In other words, the landscape and its evolution will still be legible to those concerned with such things.

2.22 The English Heritage (Historic England) guidance on the setting of heritage assets makes a pertinent point about change over time:

“The NPPF makes it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its

surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral ...

... what comprises a heritage asset's setting may change as .. the asset becomes better understood or due to the varying impacts of different proposals”⁴

2.23 The change over time to the setting of the Packhorse certainly resonates with Historic England's observations. Its most important contribution, as a focal point at the crossroads, remains important and would be unchanged. But its original context as an outlier of the village, on a tiny plot encroached on the highway and entirely surrounded by open countryside, has been irrevocably changed by dramatic extension of its curtilage and removal of most of the original boundary, intervening 1940s development between the Packhorse and the historic village, development of the land to the south, and the ongoing development to the west. The origins of the site have therefore become a matter for historic record rather than visual appreciation. In any event, the rural scene is often a complementary mixture of buildings and countryside, and we suggest that buildings of rural character do not inevitably urbanise their surroundings.

2.24 We believe that that this proposal will at least preserve, and in our view preserve and enhance, the conservation area by contrast with the current situation. It is of appropriate scale, layout and design and makes good and sensitive use of a piece of land that has been plain tarmac for many years. The relationship of the land to the listed building is of neither visual nor historic significance and the land has hitherto contributed nothing at all to the special architectural and historic interest of the conservation area. In fact it detracts. We suggest that this is an entirely reasonable proposal for an excess piece of curtilage that historically the listed building never had. We note also the absence of any objection from the Melbourne Civic Society, which has been vigorous in its opposition to unsuitable housing projects.

⁴ English Heritage (Historic England) The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning: 3 (2015) section 4

3. THE LISTED BUILDING

The heritage asset

3.1 The Grade II listed building comprises an early 18th century living room and parlour block to the south, with a lintel over the entrance door inscribed “WCM (William and Mary Cartwright) 1727”. It is attached to a kitchen wing at the north end which was probably the oldest part of the building but has been rebuilt piecemeal and now appears more recent than the other part. There are rear wings of lesser interest attached to the rear (west) elevation. There is no evidence that it was ever two houses as the list description surmises; in fact the evidence suggests that it has always been one house.

3.2 The list description is as follows:

“Two cottages, now public house. 1727 and early C19 with C19 and C20 additions. Red brick with brick and stone dressings. Red clay tile roofs with brick coped gables to either end and to centre, plus central brick ridge stack and external gable brick stack to south. Dentilled eaves band to early C19 part to north and first floor band to early C18 part to south. Canted plan, four bays and single storey plus attics to south and two storeys to north. East elevation has two 2-light horizontal sliding glazing bar sashes to north, that to south below segment head, and an inserted C20 door below a plain overlight to south. Canted brick bay window beyond to south and a glazing bar sash and stone doorcase to north. The bay window has plain sashes below stone lintels and the northern doorcase has a chamfered jambs and 'WM 1727' inscribed on the lintel. Above there are two horizontal sliding glazing bar sashes in gabled dormers and to north there are two similar flat headed windows below the eaves. Interior has chamfered ceiling beams.”

A detailed history of the building is provided for reference at Appendix 3.

Significance of appeal site to the listed building and its setting

3.3 The appeal site was completely unrelated to the listed building until the 20th century, and is not linked to any phase of development of the historic building. It was not acquired until after the historic parts of the building had ceased to develop. Even at the time of the last significant alterations around 1898, the appeal site was still not part of the property. As a roadside encroachment occupying a narrow sliver of land, the Packhorse barely had any land behind it at first, so the rear elevation was of no consequence and hardly visible to the public. All of the principal windows were in the front elevation and the rear was comparatively plain.

3.4 It is not surprising, therefore, that the Packhorse did not evolve to pay any acknowledgement to the appeal site, for example by commanding views over it, or the layout of a garden on it, or presenting a well-composed elevation to it. There was never any conscious element of design to the rear elevation; the space at the back was purely utilitarian. That is not to say that the rear elevation is wholly without merit. Rather it is suggested that it does not require a lot of space for its significance to be appreciated or “read”; it would appear equally at home in a built up environment as it does in a more open one.

Impact of proposal on listed building and its setting

3.5 The proposal received adverse criticism from the Council for its size and scale, but the appellant makes no apology for taking a bold approach, having considered the character of the conservation area and taken on board/addressed the issue of visibility from the east over the roof of the listed building.

3.6 Difference in scale is not necessarily harmful to the setting of a listed building. In a village setting, listed and other historic buildings of varied date and scale commonly sit alongside one another without any respective loss of status or significance. Indeed, these disparate buildings may often be individual components of a single site, developed under common ownership.

3.7 At both Melbourne and Kings Newton, and indeed other local villages, there is a common contrast between the contributions made by different building forms. Barn and outbuildings often arrest attention because they are large, simple and prominently sited in the streetscape. Houses are often a little more retired, or set back a least a little way, but still attract their fair share of attention through their architectural features and more lively character. The interplay between the two is an important recurrent feature of villages in the area. The conservation area character statement recognises this, and the examples provided by King's Newton House, Cofton House and King's Newton Hall (see Illustrations 1 to 6) might be mentioned as particularly strong examples. Examples in Melbourne and Ticknall are given in Illustrations 7 and 8, illustration 7 showing how farm buildings are sometimes of bolder scale than the houses to which they belong.

3.8 The appeal proposal has sought to reflect something of this local character by different handling of different parts of the proposed new building, without setting out to create an undesirable "fake" conversion scheme. A bold and simple massing runs north-south, more prominent in the view, including the garages and enclosing a courtyard behind the former pub. It contrasts with an east-west wing of a more homely and domestic character, set further back.

3.9 The need for new development to be respectful of scale, siting and massing is understood and appreciated. But we suggest that it is often valid to consider new development in the context of a settlement as a whole, provided that sensitivity is shown to any salient qualities of a site, and to look further than just the building next door.

3.10 In the context of the King's Newton vernacular tradition overall, the proposed new dwelling is not excessive in scale, and its siting and massing have been carefully considered to reflect the traditional courtyard arrangements noted as a salient feature in the conservation area appraisal.

3.11 The District Council's assertion that the dwelling would be "cramped and urbanising" is disputed. On the contrary, the appearance from the road would be quite spacious and the set-back was welcomed by the conservation officer. It is retired from the road, and the shared entrance and absence of boundary walls between existing and proposed dwellings allows for a greater sense of space. The proportions of the building are not "pinched" and the "grain" of the development is not atypical of this conservation area or many others. Traditional village development is often tight-knit right up to the edges, and it is unclear why the efforts of the current application to reflect a traditional arrangement should be interpreted as "cramped and urbanising".

3.12 The rear garden of the proposed dwelling is indeed small, but is only intended as a private sitting-out area and for bin storage etc. It is compensated by the open aspect at the front. In any case, the extent of the garden will not be publicly apparent, as the public will not be able to discern the extent of it from any public vantage point. It is suggested, therefore, that the extent of the garden is not a material consideration either practically or visually.

4. CONCLUSION

4.1 We recognise that harm to the setting of heritage assets is a serious matter, and we also recognise the implications of the Barnwell Manor and Forge Fields Society cases when considering proposals that may have the potential to cause harm.

4.2 However, it is not clear to us that the present proposal is harmful, or that development of a vacant site close to a listed building must automatically equate to harm.

4.3 The conservation officer had no adverse comments about the design of the proposed building per se, and we have explained why we disagree with the Council's reasoning concerning the massing, scale and form.

4.4 The Council's comments about the historic setting of the listed building have very limited relevance to the current setting. The appellant does not intend to harm any remaining positive quality of the present setting, and we believe that this statement shows a thoughtful appreciation and understanding of the relevant issues.

4.5 Saved policies (Housing Policy 6 and Environment Policy 8) in the Council's refusal notice concerning the principle of development are poorly matched to the site. It is not infill in the meaning of Housing Policy 6, as it is not a gap in a small group of houses, and never has been. Nor is it demonstrably an important gap site, as the Council has not recognised it as such either in its conservation area character statement or its emerging local plan. We suggest that the "poor fit" of these policies shows that the principle of development should be accepted, subject to respect for the conservation area and listed building.

4.6 We consider that the effect of the development might at worst be considered neutral, and at best may be viewed as a positive enhancement of a degraded site. We therefore conclude that there is a sound and supportable case for this appeal.

P. E. Heath, May 2016

FIGURES

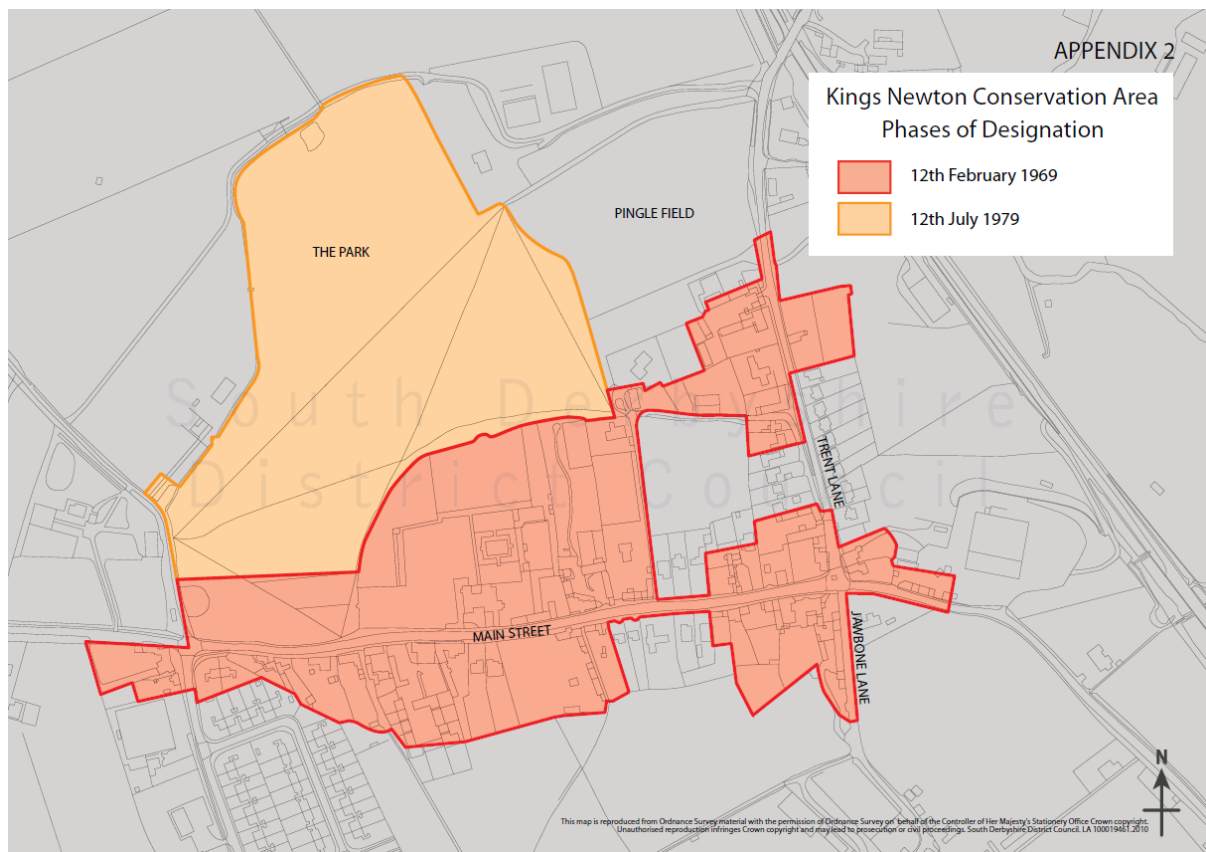


Figure 1. Kings Newton Conservation Area: phases of designation.



Figure 2. Melbourne Enclosure Commissioners' plan 1787 (Leicestershire Record Office 28D65). This shows the original thin sliver (part numbered 149) that, along with the buildings, was encroached from the road in the 17th century. The rectangle in the north east corner of Packhorse Close no 148 demarks the area of land proposed to be added to the Packhorse, which was confirmed by the Commissioners' Enclosure Award of 1791.

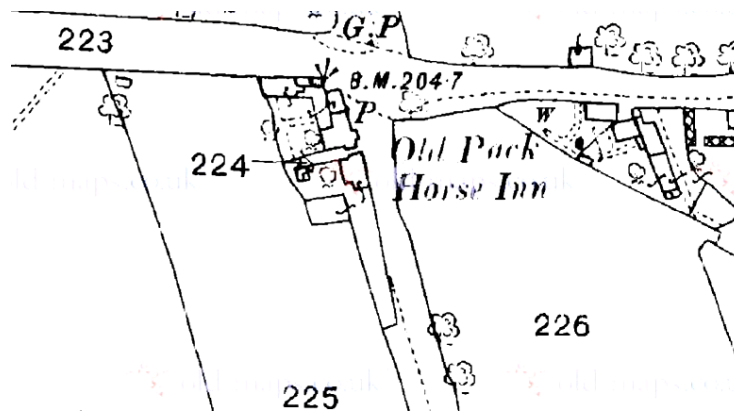


Figure 3. Ordnance Survey 25", 1882. The land west of the buildings is in use as garden ground. The current appeal site is still an open field, entirely separate from the Packhorse.

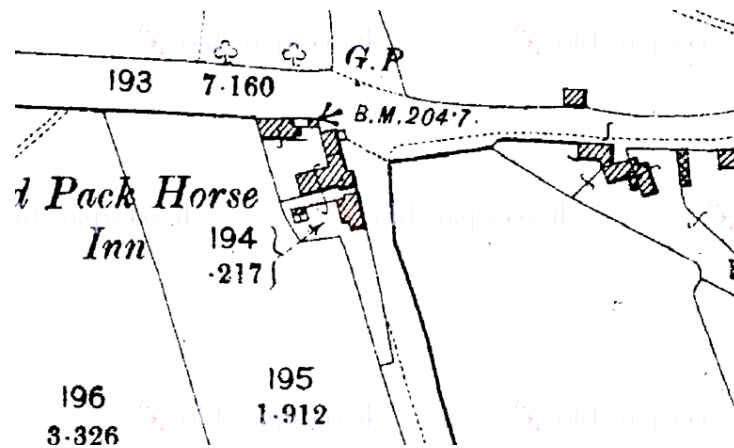


Figure 4. Ordnance Survey 25", 1901. There is little change except for the addition of an enlarged rear wing at the Packhorse, which housed a new smoke room. This was added by Altons, probably upon their purchase of the property in 1898.

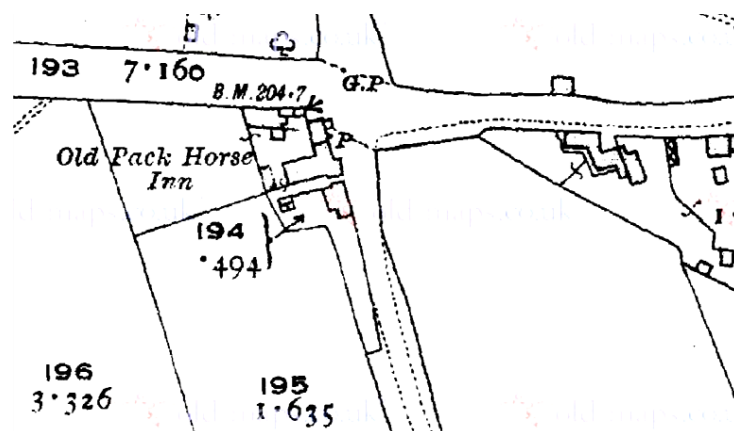


Figure 5. Ordnance Survey 25", 1922-23. The appeal site is now shown fenced off from the remainder of the field to its south, but the plan gives no indication of how the land was being used.

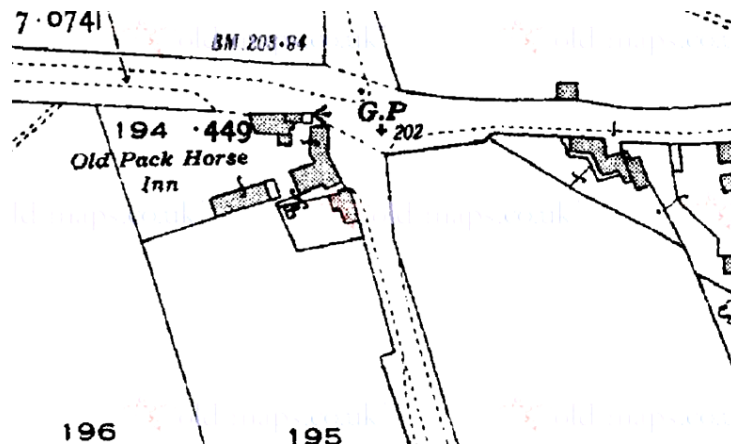


Figure 6. Ordnance Survey 25", 1937. There is apparently a vehicular access into the Packhorse, including the appeal site, and there is a substantial building along the south boundary, which is believed to have contained a skittle alley. The southern part of the original encroachment has been thrown open to the neighbouring field numbered 195, so the origins of the Packhorse as a roadside encroachment are no longer clear from the evidence of this map.

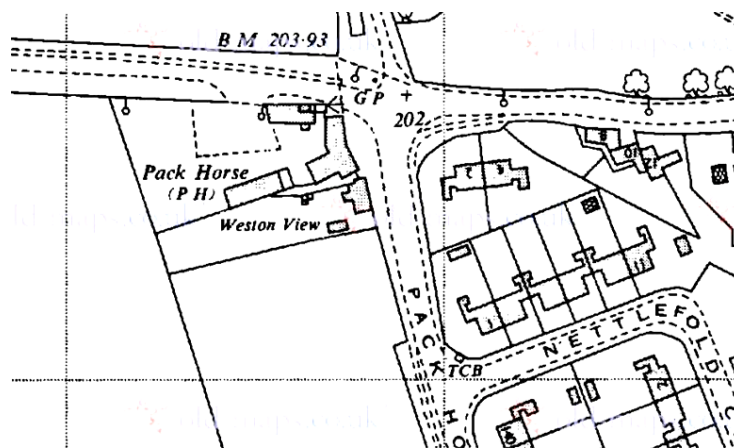


Figure 7. Ordnance Survey 25", 1968-69. "Weston View" has acquired garden ground coterminous at its west end with the Packhorse site. The broken line in the Packhorse site suggests the limit of hard surfacing for car parking, which was later enlarged. Opposite the Packhorse, the Nettlefold Crescent development of 1948 has filled in the historic gap between the Packhorse and the remainder of the village.

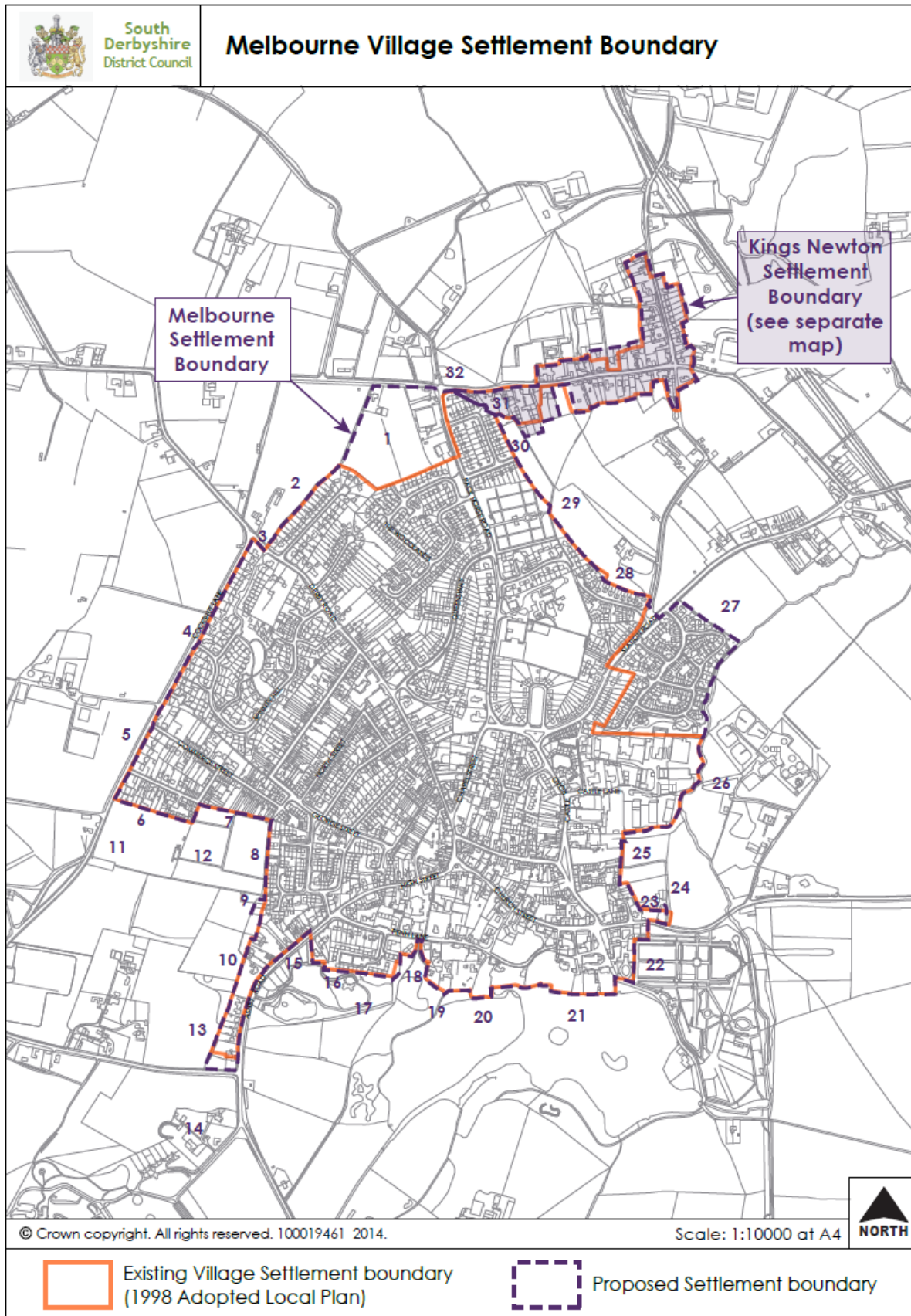


Figure 8. SDDC Local Plan Part 2 (draft). Proposed Melbourne settlement boundary.



Figure 9. Developer’s layout of the new Charles Church “King’s Croft” development adjacent to the appeal site. The appeal site adjoins the new balancing pond, which is bunded round, and the proposed dwelling lines through approximately with plots 1 to 5.

Appendix 1. Refusal notice concerning the appealed proposal SDDC ref. 9/2015/1064.



South Derbyshire District Council

Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH
Tel: 01283 228706 Email: planning@south-derbys.gov.uk

www.planning.south-derbys.gov.uk/

Mr Philip Heath
43-45 Blanch Croft
Club Row
Melbourne
Derby
DE73 8GG

Applicant:
Mr N Price
2 Milton Grange
Main Street
Milton
Derby
DE65 6EF

00030 M/81 *12/74/191



Reg.No. 9/2015/1064

Local Government Act 1972
Town and Country Planning Act 1990

REFUSAL OF PLANNING PERMISSION

In exercise of its powers as the Local Planning Authority under the above Acts and related subordinate legislation, the Council hereby gives notice that your application for **THE ERECTION OF 1 NO 5 BEDROOM DWELLING HOUSE WITH NEW ACCESS AT PACK HORSE INN PACK HORSE ROAD MELBOURNE DERBY** as shown on the deposited plans and described in the application form received 10/11/2015 is hereby **REFUSED**, for the following reason:

1. The proposed development fails to preserve or enhance the setting of the adjacent listed building and respect the historic character of the site due to its size and proximity, with the mass, design and scale of the proposed dwelling appearing over dominant and overbearing; contrary to saved Environment Policies 12 and 13 of the South Derbyshire Local Plan 1998, emerging policy BNE2 of the South Derbyshire Local Plan Part 1, and chapter 12 of the National Planning Policy Framework.
2. Saved Housing Policy 6 of the South Derbyshire Local Plan 1998 supports the infilling of a small gap for housing development, for normally not more than two dwellings within small groups of houses, subject to it being in keeping with the scale and character of the settlement, whilst saved Environment Policy 8 seeks to preserve open spaces, gaps and breaks in development which contributed to the character of a settlement. The proposal would exhibit a cramped and urbanising appearance within its plot and consequently would result in the consolidation of the existing built form in this rural area, closing this clear break which contributes to the wider setting of the site and its position within the settlement; contrary to saved Housing Policy 6 and Environment Policy 8 of the South Derbyshire Local Plan 1998, emerging policy BNE1 of the South Derbyshire Local Plan Part 1, and chapter 6 of the National Planning Policy Framework.

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed/the suggested amendments have not been supplied. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.



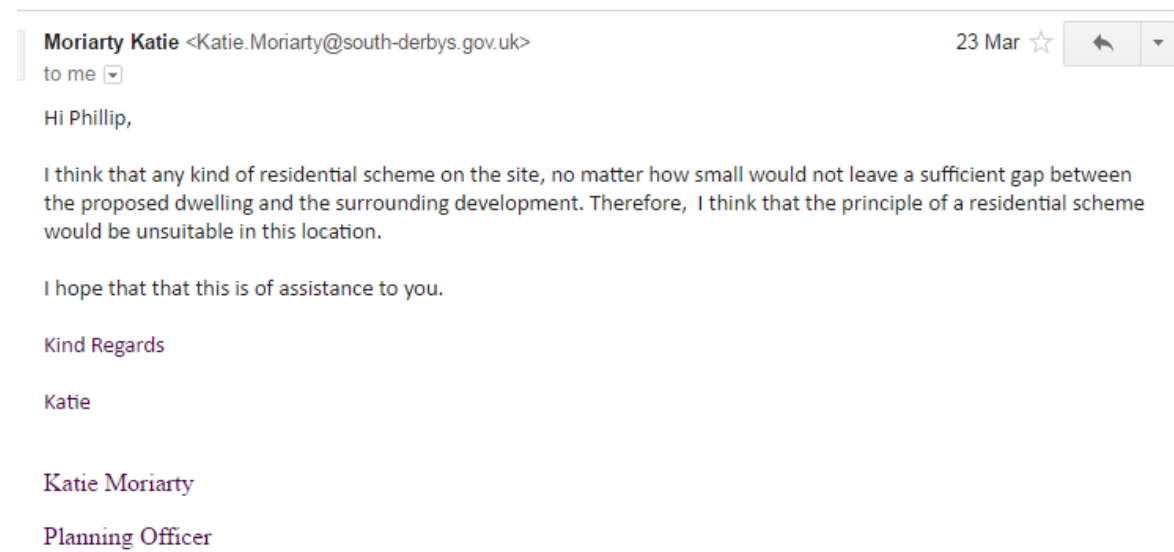
Authorised Officer of the Council

Date: 01/02/2016

YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

M/51

Appendix 2. E-mail from Katie Moriarty, planning officer, 23rd March, 2016.



Appendix 3. History of the Packhorse Inn.

The Packhorse Inn is a prominent building at the west end of the village and conservation area of Kings Newton, closing the view along the street as viewed from the east. Its naming was deliberate, as it stands on a former packhorse route. Not far away was another public house, which apparently closed in 1816, known as the “Ring of Bells” (now North View, Main Street, Kings Newton), named from the collar of bells that was worn by the lead horse in a pack. “Old Thomas Taft” of King’s Newton, who died aged 92 in 1861, could remember “when the produce of the parish was carried to Derby market in sacks upon the backs of pack horses”⁵. By 1861 this would seem quaint, as turnpike roads had made transport with carts more feasible, and the canal and railway eras had successively arrived as well.

The Packhorse was originally an encroachment on the public highway and existed by 1687. The highways of the parish belonged to the Earl of Huntingdon (of Donington Hall) as Lord of the Manor of Melbourne. So although people might build houses on the Lord’s land, they were technically squatters, although in this context the term is for want of a better word. This sort of squatter was not by definition disreputable and their presence was long-term, tolerated and accepted as normal. It was, after all, not possible to build and occupy a house furtively in such a location, as the modern concept of a squatter might suggest. Melbourne had several dozen such houses in different places, and some of them became quite respectable over time, despite their doubtful legal status. The land that such houses were built on belonged to the Lord, and he could (and did) extract rent from the occupants.

It is in 1687 that a rent first appears in the Donington Estate rentals for the house now known as the Packhorse, though the rental evidence is incomplete and the house may have been there for some years previously. From later rentals it can be deduced that the inscription C WM 1727 on the front door lintel refers to William and Mary Cartwright who were “tenants” at that time, paying a rent (more properly called an “acknowledgement”) of 1s 6d a year (7½p)⁶. They probably paid for the building work themselves, taking the chance that they would be able to stay indefinitely. It was a fairly safe assumption; these squatter houses usually passed down generations of the same family without trouble.

Certainly this new part of the Packhorse was neatly and smartly built, with a first floor string course, Flemish bond brickwork, parapets to the gable ends and neat stonework around the front door, suggesting that the Cartwrights felt some confidence in their future there. The original roof covering, as one would expect, was of single-nibbed, double-cambered, handmade red clay tiles; this is known from the complete and broken examples that remain lying among other debris in the roof void, dislodged during a previous re-roofing.

It appears that the Cartwrights’ new house of 1727, i.e. two rooms long, with the dormer windows, was grafted on to some previous building where the northern half of the present pub stands. The main giveaway for this is the stone surround of the original front door that bears the initials and date. It is too close for comfort to be at the end of a building, giving no space to detail the brickwork

⁵ Melbourne 1820-1875: A Diary by John Joseph Briggs, ed. Philip Heath. Melbourne Historical Research Group, 2005.

⁶ Huntington Library, California HAM 63/20. See also map and rentals at Leicestershire Record Office.

neatly or properly at an exposed corner. Most importantly, the bottom stone of the northern jamb extends into the adjacent part of the building and even turns an angle to line through with the building that is there now. Clearly, then, there was something there already, most likely a kitchen and service wing which in turn was rebuilt piecemeal over succeeding generations. Certainly the mix of brick and stone to this section, and evidence of phasing in the brickwork, suggests a long evolution. It is common to find that the kitchen and service rooms of an old house include fragmentary phases of previous buildings, while the better rooms tend to be all of one phase.

Whether the Cartwrights were forebears of the Ince family that succeeded them is not yet known, but it is quite likely. Nor is it known whether the Packhorse was a public house right from the time it was built, but that is likely too: the 1727 part was provided with a barrel vaulted cellar appropriate to pub use. Upstairs, the cut-off end of a large piece of timber goes right through the wall immediately over the top of the original (1727) doorway, suggesting that it is the sawn-off remains of a gallows bracket for an early inn sign, long removed and perhaps (but not necessarily) original to the building.

In 1791 the tenant was John Ince who, in that year, completed an exchange agreement with the Lord of the Manor to acquire the freehold of the Packhorse with its Stables and Gardens, containing an area of 17 perches (a perch = 30.25 square yards). Furthermore, Ince was also able to acquire a further 16 perches of land west of the house, as garden ground. The angled gable end at the west end of the outbuildings alongside Newton Lane marks the boundary of the land at the time the gable end was built⁷, and shows the limit of the land acquired by Ince in 1791. Further land was added in the 20th century.

Ince's acquisition in 1791 included not only the building we now know as the Packhorse, but also the property next door, which was part of the Packhorse property and is known today as "The Old Alehouse". Before this was a house it may have been an outbuilding; the first floor carpentry is divided into three equal bays, and the staircase is clearly an insertion. Its appearance and general character suggest that it was converted to a house in the early years of the 19th century. In 1840 it was a beershop described as the "Old Pack Horse", owned and occupied by Mary Ince, while the present Packhorse was a public house called just the "Pack Horse" owned by Thomas Chell and occupied by Joseph Ratcliff⁸. As recently as 2003, it was remembered locally that the Old Alehouse had once been part of the Packhorse Inn. It "was known as the Doss House, where the riders dossed down for the night"⁹. Whether beer was served exclusively in there, or in the present Packhorse Inn, or both, we don't know. Perhaps the situation varied over time.

Thomas Ince, victualler, dealer and chapman¹⁰, and owner of the Packhorse in 1829, was forced to sell it owing to his bankruptcy¹¹. Ince's tenant, Thomas Percival, bought it, but in 1831 had still not completed the purchase¹². The Ince family appear to have stayed in residence for many years at the "Old Pack Horse" next door, where Miss Matilda Ince died aged 57 on 8th April 1871.

⁷ Melbourne Enclosure Award, Derbyshire Record Office, folio 43; Ordnance Survey 25" 1st and 2nd editions.

⁸ Melbourne plan and survey, 1840. Melbourne Hall Muniments.

⁹ Memo from Mrs. Sheila Blood to Melbourne Historical Research Group 28/02/2003

¹⁰ Derbyshire Record Office D2181/3

¹¹ Derby Mercury 8th, 15th, 22nd and 29th July, 1829

¹² Derby Mercury 13th April, 1831

The Packhorse was a focal point of village life. Social events there included a series of “smoking concerts” in 1896¹³, but the Packhorse was also the scene of inquests into local deaths. Some of these are worthy of particular notice:

- In 1860¹⁴ there was a coroner’s inquest into the sudden death of Margaret Pearson, aged over 70, who had gone to bed quite normally on a Sunday evening. Two boys slept with her in the same bed, and a young woman slept in another bed in the same room. No one knew she was dead until a domestic servant asked the young woman ‘what she would have for breakfast’.
- In the next year there was an inquest into the death of heavily pregnant Mary Ann Crampton, who drowned herself upon being asked to leave the small farm on Holywell Lane that she and her husband had been asked to manage by its owner, Mrs. Ward¹⁵. The house was pulled down two years later.
- In 1885 there was an inquest into the sudden death of John King of Kings Newton aged 82, who had lived alone for thirty years¹⁶.
- In 1895 there was an inquest into the death of Mary Robey, who was found dead in the road. It was determined that she had died of heart disease, accelerated by exposure to cold temperatures¹⁷.

In April 1898 the Packhorse it was purchased by Messrs. Alton and Co. of Derby for £2,600¹⁸. It seems that the Packhorse and the “Old Packhorse” next door were once again reunited in common ownership at this time, as the total land area of the Packhorse “together with a cottage adjoining” is given as 1059 yards (35 perches), very close to the total area as it was in 1791.

It was almost certainly Altons that added the late Victorian smoke room in a new rear wing of the building, and they were probably responsible for the large bay window at the front for the snug, which has charm despite its incongruous scale. The smoke room was of plain construction, with two sash windows flanking the fireplace at the west end, and two further windows opposite each other down the sides. One gesture to gentility appears to have been an ornate octagonal ceiling rose in the centre, whose outline remains visible in the ceiling plaster. Other alterations at the same time may have included some or all of the following:

- Subdivision of first floor clubroom into two separate rooms. Structural evidence suggests that the two first floor rooms at the north end of the building were formerly a clubroom, which would be entirely in line with the evidence of several other public houses in the parish¹⁹. Club rooms were often upstairs.
- A new front door next to the bay window. This was quite crudely cut through the original brickwork and appears to have involved removal of the original stairs to the first floor which

¹³ Derby Mercury 27/5/1896

¹⁴ Derby Mercury 11/7/1860

¹⁵ Derby Mercury 17/4/1861

¹⁶ Derby Mercury 19/8/1885

¹⁷ Derby Mercury 6/2/1895

¹⁸ Derby Mercury 20/4/1898

¹⁹ e.g. The former Roebuck Inn, the former White Lion Inn, the White Swan, the Melbourne Arms and the Melbourne Hotel (now Harpurs).

were in this location. The cellar steps were underneath them, being afterwards covered with a trapdoor and since filled in, probably in 1970.

- Mid 20th century photographs²⁰ show decorative ridge tiles to the roof and a roof covering which is indistinct but looks like Welsh slate. Perhaps Altons were responsible for this as well.
- Brickwork of similar character to the smoke room and bay window also appears at the west end of the outbuildings alongside Kings Newton Lane, which appear to have been raised and re-roofed at this period. A small square former outbuilding (now absorbed into the main building) is also of the same brickwork. It had a chimneystack (removed) on the west gable, and may originally have been a washhouse.

It was perhaps at this same time, or maybe a little later, that the inglenook fireplace adjacent to the external door with the inscribed lintel was altered. Originally it had a wide brick funnel flue like the one that is backed up to it in the adjacent room. However, it was probably Altons' who removed the flue (except the top part which, oddly enough, survives, and built a conventional chimneybreast in the inglenook instead. The inglenook beam was raised to clear the top of a new external window in the west wall. The chimneybreast has since been removed at ground storey level, with the first floor section now carried on a cased steel beam.

By 1970, when another phase of alteration work was undertaken²¹, Alton and Co. had changed their name to Ind Coope. The alterations on this occasion comprised:

- opening up around the fireplaces between the ground floor rooms served by the principal chimneystack, to give intervisibility between the rooms. The plans show that the chimneybreasts themselves were to remain in place, and it is unclear whether they were removed at this stage or later.
- repositioning of the bar and servery areas, thus allowing the former kitchen to become part of the public area, probably for the first time.
- a new WC block (demolished 2015) on the north side of the late Victorian smoke room.
- a partial suspended ceiling in the smoke room (now removed), ending at a jaunty angle halfway along the room,
- provision of new steps from the bar in the smoke room down to the cellar, housed under a small flat-roofed extension. This replaced the awkward previous access which was either by steps under the trapdoor behind the front door, or the external beer drop,
- formation of a flat roofed passage on the west side of the building,
- a new piece of building to extend the outside store room eastwards and join it to the north end of the main pub. This then became the private living/dining room, to replace the private living room (former kitchen) that became part of the pub.
- a new door and window in the ground storey of the north gable end, cutting through the original rubble stonework there.
- formation of passage upstairs to avoid going through one or more bedrooms to reach another, and relocation of bathroom.
- The present roof covering of machine-made red tiles may be of this period also.

²⁰ Melbourne Historical Research Group collection

²¹ South Derbyshire District Council planning file 570/118

There are hints that Altons kept a supply of redundant fixtures and fittings to use among their portfolio of pubs as the need arose across the decades. The handrails on both sets of stairs (i.e. a mahogany one going down to the cellar, and a painted one up to the first floor) are both re-used from old balustraded staircases somewhere else, and the stairs from ground to first floor also look re-used, having an unnecessary surplus tread at the bottom, almost flush with the floor slab.

The new private living/dining room eventually became a servery, and a catering kitchen was contrived out of the adjacent outbuildings. But other than that, the layout hardly changed from 1970 until the pub closed.

P. E. Heath, 2015

Appendix 4. Conservation Officer's pre-decision comments on refused application 9/2015/1064.

South Derbyshire District Council

Planning Application Consultation PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

Application No: 9/2015/1064

Location: Land at the Packhorse Kings Newton

Proposal: New Dwelling

Conservation Consultation: These comments are made in the light of the relevant National and Local Planning Policy such as the Planning (Listed buildings and conservation area) Act 1990, NPPF and The South Derbyshire Local Plan Review

General: The Pack Horse is an interesting complex of listed buildings which have been used as a public house for a substantial period of time. It is now being converted into a single dwelling. The land for the proposed site is currently a car park which rises away from the listed building. The Pack Horse forms a gateway into Kings Newton. The site is located within the Kings Newton Conservation Area adjacent to its boundary. Adjacent a housing development is taking place but set well back from the roadside to retain an open green approach to the village.

The Proposal: Erection of new dwelling

Use: Car park/being converted to orchard/meadow

Comments: We would object to the proposals and recommend refusal. The Pack Horse is a prominent listed building which frames the entrance into Kings Newton. It is thought to have been in existence since 1687 and there is a date 1727 on part of the structure. It would appear to have originated as two cottages that have become amalgamated and later extensions added as the business evolved. It is currently being converted into a single five bedroom house. The Pack Horse makes an important positive contribution to the character of the conservation area, highlighted in the appraisal, in addition to it being a listed building. It appears to have originated as an outlier of the village built along the lines of the route the pack horses took at the crossroads. As such its setting which is still partially preserved is that within an open semi-rural space rather than being part of the dense medieval settlement seen on Main Street. The supporting information agrees with this in that it describes the pack horse as a "sentinel" and that it forms the focal point of the junction. This matches the description within the conservation area appraisal which shows the building as a landmark/ focal point. This view is important when observing the building from within the conservation area. The conservation area proposal states "the pair of buildings that form the Packhorse Inn, built largely in brick, are a prominent focal point in views looking west". At present as noted above the Pack Horse defines the limits of the area with what appears visually to be the open space of the countryside beyond. It is located at a dip of the ground levels in the road at the

crossroads and so the land rises to both sides. Whilst we note that at present when approached from the west beyond the buildings the roofscapes can be seen at present when viewed from the east looking west it maintains its isolated character. The roofs of the proposed dwelling would be visible beyond the packhorse and as such it would lose its “sentinel”/ outlier character when viewed from within the conservation area and instead appear as part of the wider settlement when viewed from within the conservation area. As such this would change the character of this important processional views and detrimentally impact on the setting of this listed building. When viewed from the west the proposed site is open and undeveloped at present and has been since this area was incorporated within the conservation area. Open space and gap sites are important within the Kings Newton Conservation Area and the importance of these gaps sites is noted within the appraisal document. In particular it states that one of the characteristics of the conservation area is “a place of strong contrasts between structures and spaces.” It is this visual interest and variety which is noted as being of particular importance. The proposal involves the erection of a substantial five bedroom dwelling with incorporated garage. As stated in the accompanying impact analysis the massing is “bold”. The proposed dwelling is substantial and although there is now a welcome set back it would appear dominant and overbearing from the roadside when compared to the adjacent listed building and dominate the plot. We do not believe that this would, preserve the setting of the adjacent listed building or preserve or enhance the character of the conservation area. There is a strong presumption against the grant of planning permission for development which would harm the setting of a listed building or the character and appearance of a conservation area. As heritage assets are irreplaceable, any harm should require clear and convincing justification. The significance of this part of the conservation area is that it is an open gap site providing a setting to the Pack Horse. The proposal would cause harm to the heritage asset by infilling this gap and impact on views of the asset from the east and west. We do not believe that the justification for the proposed dwelling outweighs the harm or that it provides public benefits. In particular given the present the application for conversion being implemented involves enhancement to the conservation area. Therefore this test has been failed. As such we must strongly object and recommend refusal. Section 66(1) of the act states that the authority “shall have special regard to the desirability of preserving the building or its setting” and Section 72 (1) “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. Recent court decision at Barnwell Manor stated that “considerable importance and weight to be given by decision-makers to the desirability of preserving the setting of all listed buildings”. At Forge Fields case which went to the high court it held that causing harm to the setting of a listed building or a conservation area gave rise to a “strong presumption” against planning permission being granted. Therefore we believe that the proposal is contrary to Policy as outlined in the South Derbyshire Local Plan which states that “regard will be paid to the need to preserve the setting of listed or other buildings of architectural or historic importance.” Other items Recommendation: We would object and recommend refusal as the proposal causes harm to the setting of the listed building and the character of the conservation area. As such it is contrary to policy and guidance and so should be refused. Conservation Officer (NR) Date 7/12/2015

ILLUSTRATIONS.



1. The outbuildings of Kings Newton Hall are a striking but plain feature of the street scene.



2. Kings Newton Hall itself is set back and of a more lively character



3. The outbuildings of Cofton House on Trent Lane have a commanding presence.



4. Cofton House also has a commanding presence, but care has been taken to reinforce its domestic character by having a strip of soft landscaping in front of it, albeit only small.



5. The outbuildings of Kings Newton House are particularly plain and uncompromising in character, and bold in scale, but it is a strength rather than a weakness.



6. The house itself, to be honest, is something of a local oddity. The small windows, dominant walls and insignificant roof evoke Italy rather than England. Nonetheless, it has a landscaped strip in front of it in the local tradition.



7. Here at Melbourne, the cruck cottage to the left was of smaller scale than the former barns on the right, which belonged to it. The barns were converted to cottages when the farm was sold in 1823, but their original external dimensions were unaffected.



8. Ticknall. Another contrast between a boldly sited set of farmbuildings among hard landscaping, contrasting with a more retired farmhouse.