

North East Derbyshire District Council

Special Planning Committee

27 November 2018

Development Management Applications

Report No PM/16/18-19/AK of the Planning Manager – Development Management

This report is public

Schedule of Planning and Other Applications under the Town and Country Planning (General Development Procedure) Order 2015, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012

FOR THE INFORMATION OF MEMBERS

Legal and Financial Implications

Members are advised that there may be legal and financial implications arising from determination of planning and other applications and the authorisation of enforcement action.

There is a right of appeal against a refusal of planning permission or the imposition of conditions on a planning approval, which may attract an award of costs against the Council. Preparation of the District Council's case in such appeals may necessitate expenditure on legal advice or Counsel.

Breaches of planning control, such as unauthorised development or the unauthorised use of buildings and land, or failure to comply with conditions may be redressed by the District Council's powers to take enforcement action. Such action may lead to possible further action in the Magistrates' or Crown Courts which may involve expenditure on legal advice and costs.

There is a right of appeal against the service of an enforcement notice. If any appeal is upheld it may attract costs against the Council.

Human Rights Act 1998

The reports consider decisions by the Council which may affect property rights of the owner (Article 8 and Article 1 may be relevant). Under the Human Rights Act 1998 the Council must be in a position to show:

- its action is in accordance with clearly established law
- the objective is sufficiently important to justify the action taken
- the decisions taken are objective and not irrational or arbitrary
- the methods used are no more than are necessary to accomplish the legitimate objective
- the interference impairs as little as possible the right or freedom

All action taken in considering applications, consents, and enforcement is the lawful duty of this Authority as Local Planning Authority. Decisions are objective and proportional being based on consideration of the National Planning Policy Framework and the policies contained in the North East Derbyshire Local Plan and all other material considerations.

There is a right of appeal against all decisions made by the Council.

Environmental Considerations

There are environmental implications arising from the determination of planning applications and the authorisation of enforcement action. The consideration of the development of any site seeks to take into account the need to safeguard the environment, and the relevant issues are dealt with in each case in the Planning Assessment and Summary.

Community Safety Implications

Members are advised that there are Community Safety Implications arising from the determination of planning applications.

Crime prevention is capable of being a material consideration in the determination of planning applications as set out in the National Planning Policy Framework. Where relevant these matters are addressed in each case in the Planning Assessment and Summary.

The safety of development sites is the responsibility of the site's operative and enforced by specialist agencies.

Issues with regard to highway safety are relevant to the determination of planning applications. These issues where relevant are addressed in each case in the Planning Assessment and Summary with the relevant advice of the Highway Authority incorporated in the report.

Background Papers

The background papers relating to each application are the application forms, plans, representations received and replies to consultations, contained in the application file, the reference of which is given at the head of each report.

With reference to applications made for works to Protected Trees

Financial Implications

The prescribed format when a Tree Preservation Order is made includes a section which makes provision for the payment by the Local Planning Authority, subject to such exceptions and conditions as may be specified in the Order, of compensation in respect of loss or damage caused or incurred in consequence of:-

- (a) the refusal of any consent required under the Order; or
- (b) the grant of any such consent subject to conditions.

Liability for compensation may be avoided by the Local Planning Authority in relation to trees which are subject to a Tree Preservation Order made prior to 2nd August 1999, and incorporating the appropriate wording, where in refusing consent or imposing conditions on

an approval the Local Planning Authority are satisfied that their decision is in the interest of good forestry or that the tree(s) has/have an “outstanding” or “special” amenity value, unless the Council’s assessment of the amenity value of the Tree(s) is successfully challenged.

Legal Aspects

Once an Order is made, applications for consent are required in respect of any proposed cutting down, topping, lopping or uprooting of any trees. There is a right of appeal to the Secretary of State against the decision of the Council to either refuse consent or grant permission for works subject to condition.

Environmental Considerations

The making of a Tree Preservation Order, and the subsequent control of works to trees covered by Orders are likely to benefit the local environment through the contribution of the protected tree(s) to visual amenity and the retention of their ecological value. The assessment of all applications for consent for works balances this with the need for the works proposed.

Trees (Community Safety Implications)

The health of a protected tree and its safety remain the responsibility of the tree’s owner, even where the tree is covered by a Tree Preservation Order. If a tree is dead, dying or dangerous, works to rectify the danger may be undertaken without the consent of the District Council.

The safety and health of a tree covered by a Tree Preservation Order is a material consideration in the determination of any application to undertake work to a protected tree. However, this has to be balanced against all other material factors when considering any particular submission.

DEVELOPMENT MANAGEMENT APPLICATIONS INDEX

PARISH	APPLICATION NUMBER	TITLE	PAGE NUMBER
STRETTON	NED/18/00812/RM	Approval of reserved matters (layout and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/OL (Major Development)(Amended Plans) at Land to the East of Prospect House, Highstairs Lane, Stretton for Wildgoose Homes.	5 - 13
STRETTON	NED/18/00801/FL	Application for the demolition of the existing dwelling and garage and the construction of two new detached dwellings with integral garages, creating one new vehicular access on to Highstairs Lane (Revised scheme of 18/00117/FL) at Erzamine, Highstairs Lane, Stretton for Mr H&J Rowles.	14 - 23
STRETTON	NED/18/00420/FL	Application for new Agricultural Steel Barn (Amended Plan) – Land to the west of Erzamine, Highstairs Lane, Stretton for Mr Riggott.	24 - 35

APPLICATION NO. 18/00812/RM**APPLICATION** Approval of reserved matters (layout and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/OL (Major Development)(Amended Plans)**LOCATION** Land to the East of Prospect House, Highstairs Lane, Stretton**APPLICANT** Wildgoose Homes**CASE OFFICER** Mr Nigel Bryan**DATE RECEIVED** 8 August 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: No Member has requested that the application be considered at the Planning Committee.

REASON: The application is referred to the Planning Committee for decision as it is locally controversial and other applications for development on this site have all been determined by Planning Committee.

1.0 SITE DESCRIPTION

- 1.1 The application site covers an area approximately 1.15 hectares in size and lies to the immediate north of Stretton. It is bound by the A61 to the east; an attractive stone wall marking this boundary with the land gradually rising behind the wall. The southern boundary is formed by Highstairs Lane and associated planting; the western boundary, with Prospect House, is marked by trees and hedging; the north boundary has no discernible physical barrier with a larger field.
- 1.2 The actual application site is largely devoid of any significant features having been farmed for a number of years, save for a modest change of levels with a low point being in the southeast corner, where there is an existing field access.

2.0 PROPOSAL

- 2.1 The application seeks consent for the approval of reserved matters relating to layout and landscaping only, for the erection of 28 dwellings, comprising a mixture of two, three and four bedroom properties. The properties will largely be outward facing, in line with good design practice, save for those adjacent to the existing boundary with Prospect House which would back onto the curtilage of that property. The matters relating to access, scale and appearance of the dwellings have previously been approved.
- 2.2 Natural contours and levels of the site will be utilised and a total of 3 on-site affordable dwellings are proposed (units 22-24). All properties would be two-storey and highway improvements along Highstairs Lane, many as agreed at the outline stage, are proposed. The hedgerow along Highstairs Lane is to be relocated along the northern boundary, along with an extensive planting scheme.

3.0 AMENDMENTS

- 3.1 During the course of the application amended plans have been submitted that re-site a number of properties along the western boundary, given the identified root protection area of trees located within third party land. In addition, additional information has been submitted to address concerns with regard to ecology, notably an updated Hedgerow Translocation Method Statement.

4.0 PLANNING HISTORY

- 4.1 14/00249/OL - Outline planning application (means of access submitted) for residential development and improvements to Highstairs Lane (Major Development) (Departure from Development Plan)(Additional Plans/Information) – the application was granted planning permission, with a section 106 legal agreement, on 29 October 2014.
- 4.2 15/00910/OL - Application to vary condition 3 of 14/00249/OL regarding the provision of affordable housing – the application was granted permission on 12 November 2015, to allow a reduced level of affordable housing (12.9% of 31 dwellings, or 4 units).
- 4.3 17/00768/RM – The application was for the ‘approval of reserved matters (layout, scale, appearance and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/FL’. The application was refused permission on the 24th November 2017, following the decision of Members of the Planning Committee held, on the 21st November. An appeal was lodged against the decision and the Planning Inspector dismissed the appeal insofar as it related to layout and landscaping but allowed the appeal with regard to scale and appearance. The content of the appeal decision is covered in more detail later in this report, with the decision issued on the 22nd of June 2018.
- 4.4 18/00226/RM – The application was for the ‘approval of reserved matters (layout, scale, appearance and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/FL (Major Development)(Revised scheme of 17/00768/RM) (Amended Plan) (Further Amended Plans). The application was refused permission at the Planning Committee on the 5th June 2018 for the following reason:

“The application is considered to be unacceptable as it represents dense overdevelopment and the proposed dwellings and design and layout of the scheme would not be in keeping with the character of the surrounding area and have an adverse and imposing impact on it.

It would therefore be contrary to policies BE1 and H12 of the North East Derbyshire Local Plan and the National Planning Policy Framework when read as a whole.”

5.0 PLANNING POLICY CONSIDERATIONS

North East Derbyshire Local Plan

5.1 The North East Derbyshire Local Plan (adopted November 2005) forms the Development Plan and pertinent policies are drafted below.

- GS1 – Sustainable Development
- GS6 – New Development in the Countryside
- NE1 – Landscape Character
- NE3 – Protecting and Managing Features of Importance to wild Flora and Fauna
- NE7 – Protection of Trees and Hedgerows
- NE8 – Tree Planting
- H3 – New Housing Outside Settlement Development Limits
- H7 – Affordable Housing in Settlements with a Population of 3000 or fewer
- H12 – Design and Layout of New Housing
- BE1 – General Design Principles
- T2 – Highway Access and the Impact of New Development
- T9 – Parking provision
- CSU4 – Foul and Surface Water Drainage
- CSU6 – Contaminated Land

5.2 Taking into account the refusal of application 17/00786/RM on appeal, policies BE1 (General Design Principles) and H12 (Design and Layout of New Housing) are considered to be most pertinent to the application and both are intended to make sure that new built form will respect the character of the area.

Policy BE1 identifies that permission will only be granted where, inter alia, ‘they are of a density, scale, massing, height and layout and use materials that respect the character and appearance of the surrounding area’.

Policy H12 identifies that, inter alia, ‘there would be a need to contribute to local distinctiveness, as well as protect important landscape features and areas of natural history interest’.

Given the Inspectors conclusions on application 17/00768/RM, policies in chapter 2 ‘Natural Environment’ are also pertinent to the determination of the application and seek to preserve or enhance the landscape character of the District.

5.3 Also pertinent is the ‘Successful Places’ guidance.

5.4 The **Publication Draft Local Plan (2014-2034)** is also relevant to the application and is now at an advanced stage of production, which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034.

The Plan has been submitted to the Secretary of State for examination and is due to be examined by a Planning Inspector in November 2018. This document has been subject to extensive consultation and sets out clearly the Council’s strategy for sustainable development and should be afforded weight in decision making; pertinent policies are drafted below;

- SS1: Sustainable development
- SS2: Spatial Strategy and the Distribution of Development
- SS9: Development within the Countryside
- SS11: Local Settlement Gaps
- SDC2: Trees, Woodlands and hedgerows
- SDC3: Landscape Character
- SDC12: High quality design and place making
- ID1: Infrastructure Delivery and Developer Contributions

National Planning Policy Framework (NPPF)

- 5.5 The NPPF is an important material planning consideration and identifies that proposals should 'achieve well-designed places' (chapter 12), 'make effective use of land' (chapter 11) as well as 'conserve and enhance the natural environment' (chapter 15).

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

- 6.1 The **Highway Authority** note minor changes from the submission of application 17/00768/RM and raise no objection to the application subject to the imposition of conditions. Clarification should be sought on bin collection details.
- 6.2 **Yorkshire Water** note that no drainage details have been submitted and such details would need to be approved through the discharge of condition process.
- 6.3 The **Environment Agency** note that the site falls within flood zone 1 so is at a low risk of flooding and request that the advice of the Lead Flood Authority (Derbyshire County Council) be sought.
- 6.4 **Environmental Protection** note that condition 29 of the outline permission requires the submission and approval of details relating to noise mitigation, given the proximity of the A61. Whilst a report would need to be approved through a discharge of conditions application it would assist if the report were completed earlier given possible mitigation and requirements to amend the scheme. Details of possible contamination and coal mining legacy would need to be dealt with through the discharge of conditions 26 and 31 respectively.
- 6.5 The **Coal Authority** note that condition 31 of the original outline permission (15/00910/OL) relates to the coal mining legacy and, as a result, they raise no objection to this reserved matters application.
- 6.6 The **Housing Strategy Officer** notes that the level of on-site affordable housing proposed is 3 units, whereas the contribution sought through permission 15/00910/OL is 4. However, given that the number of dwellings to be erected has reduced from 31 to 28, the actual contribution sought is some 3.6 affordable dwellings. As a result the provision of 3 on-site units is acceptable subject to a payment in-lieu equivalent to 0.6 of an affordable unit, this would total £24,449.58.
- 6.7 **Derbyshire Wildlife Trust (DWT)** note that the hedgerow along Highstairs Lane is to be re-located, as required by condition 12 of outline permission 15/00910/OL, and this is supported. Trees and the hedgerow along the western boundary of the site should be retained. DWT also express concern as to whether or not there would be an overall ecological enhancement given that planting along the northern boundary appears reduced from when the original outline was granted permission.

(Officer note: additional information to address concerns highlighted by DWT have been submitted and their observations on this information will be reported in the late items paper)

- 6.8 The **Woodland Trust** maintain their objection to the application. The hedgerow along the western boundary is identified as important and until such time as the access is re-configured to allow the retention of the hedgerow in its current location they will continue to object to the proposal.
- 6.9 **Derbyshire Police** have no observations to make on the application.
- 6.10 The **Parks Officer** notes that no Public Open Space is intended to be under the control of the Local Planning Authority so make no observations on the application.
- 6.11 **Stretton Parish Council** object to the application.
- 6.12 As a result of **public consultation** undertaken 9 letters of objection have been received to the application, and one letter of support. A summary of their observations are reproduced below;
- The Method Statement for the relocation of the hedgerow is not site specific and the Woodland Trust maintain their objection to the application
 - Trees along the western boundary were recognised as important by the Planning Inspector and these will still be undermined;
 - Who will ensure that no digging will occur within the Root Protection Areas of trees along the western boundary?;
 - Occupiers of the properties will not integrate into the village given the relatively poor access to services and need to commute for a weekly shop;
 - The overdevelopment of the site is at the expense of biodiversity;
 - The Inspector advised that highway capacity and safety will not be compromised, that is wholly incorrect;
 - A bus stop will be in the vis-splay to the south of the site along the A61;
 - Wildlife will be compromised given the reduction in scale of the planting belt to the northern boundary. Also re-location of the hedgerow is likely to fail;
 - Green wildlife corridors have been omitted, to the detriment of wildlife;
 - Access to the site is unacceptable and would be detrimental to highway safety;
 - The application site is in open countryside and outside of the Settlement Development Limits where there is a presumption against residential development;
 - The land falls within the settlement development gap as identified in the 'Settlement Development Gap Study';
 - Given the observations of Derbyshire Wildlife Trust the application should be refused with ecology a priority over the profits of a developer;
 - Trees toward the periphery of the site, on the west and southern boundary, will be detrimentally impacted;
 - The tree report is sub-standard and there will be pressure from occupiers of the proposed dwellings to remove trees due to a loss of light;
 - There is a coal mining legacy on the site that should be explored, with the land unsafe for the development proposed;
 - When access was considered at the outline stage it was not done appropriately and access should be re-considered;
 - Highstairs Lane is already used as cut through, widening the road will only increase traffic along the road;
 - Services within the local area e.g. schools, doctors etc are already at capacity and cannot accommodate the additional population;

- How will emergency vehicles and refuse lorries access the site?
- Due to the land being raised above existing properties residential amenity of dwellings in close proximity to the site will be compromised;
- The hedgerow to be removed is 'important' and should not be moved

The letter of support notes that additional housing will increase local school admission as well as allow people who work locally to move into the area.

7.0 PLANNING CONSIDERATIONS

- 7.1 Given the planning history to the site, with access, scale and appearance having been granted consent, the matters under consideration are only those relating to layout and landscaping. As a result the primary consideration for the application is whether or not it complies with policies in chapters 2 (Natural Environment) and 3 (Built Environment) of the North East Derbyshire Local Plan and guidance within the National Planning Policy Framework. Particular regard would also need to be had to the Inspector's conclusions in considering application 17/00768/RM.

8.0 PLANNING ASSESSMENT

- 8.1 This application is not an opportunity to re-consider the principle of development on this site as this has already been established following the grant of outline permission 14/00249/OL and the split decision issued by the Inspector on appeal relating to application NED/17/00768/RM. As a result this report will focus on the two outstanding matters of layout and landscaping.
- 8.2 Landscaping - It is apparent that when the Inspector considered the appeal, referred to above, there was not an intention to re-locate the important hedgerow, rather a replacement hedgerow was proposed to be planted. However, the Inspector considered that this would result in a bio-diversity loss over the site. As part of this application the hedge is proposed to be re-located and a Hedge Translocation Method Statement (HTMS), identifying how this will be done, has been submitted. Derbyshire Wildlife Trust (DWT) have made observations on how to improve the HTMS and these have been incorporated within an updated document. As a result, and subject to conditions, it is considered that this aspect of the scheme is now acceptable.
- 8.3 Another area of concern for the Inspector was how the development proposed would impact on trees along the western boundary of the site. With this application an Arboricultural Assessment (AA) has been submitted in support of the application and identifies Root Protection Areas (RPAs) for the trees. The site layout has been amended to ensure that no development would take place within or immediately adjacent to the RPA, offering a degree of assurance that the trees will not be detrimentally impacted.
- 8.4 DWT have expressed concern about whether or not there would be a biodiversity improvement with the planting along the northern boundary being not as comprehensive as originally outlined in the outline permission. However, currently the site is devoid of fauna save for that to the site periphery and whilst the planting strip to the north may not be as wide as originally indicated at the outline application stage, landscaping was not a matter under consideration at that stage, as it is now.

It is also apparent that with the exception of the hedging to the periphery of the site there is no planting proposed, as the site was farmed so it is considered that, notwithstanding the landscape buffer is not as large as originally indicated at the outline stage, there would still be biodiversity enhancements over the site as a whole. Having regard to the above it is considered that with the alterations proposed and the additional information submitted with this application over and above that before the Inspector, notably the AA, the application complies with guidance within the NPPF and pertinent policies within the North East Derbyshire Local Plan (chapter 2).

- 8.5 Layout - With regard to layout the Inspector noted that 'it would respond to its immediate surroundings, and include a landscape buffer to its northern edge which would provide a suitable interface with the adjoining open countryside' (paragraph 21 of the appeal decision). The primary area of concern with regard to the layout related to how it would impact on landscape features, notable trees to the west of the site. Having regard to minor changes to the layout, to ensure that no features are within the RPA of trees on the western edge of the site, there is no overriding concern with the layout as now proposed, which is considered to respect the character of the area, with scale and appearance having already been approved.
- 8.6 Other matters - Following the grant of outline permission 14/00249/OL, which required 40% affordable housing, a further application (ref: 15/00910/OL) was submitted to reduce the level of on-site provision. As a result the condition was varied to allow 12.9% provision, or 4 units based on the predicted 31 dwellings to be erected.
- 8.7 However, overall, the number of units has been reduced down to 28, which equates to 3.6 affordable units. To mitigate the 0.6 of an affordable dwelling a financial contribution of £24,449.58 is required; this is to be secured through a Unilateral Undertaking, with the agreement now in situ. Taking into account both the on-site provision and the financial contribution the level of affordable housing is considered to be acceptable and complies with policy H7 of the North East Derbyshire Local Plan.
- 8.8 Other concerns have been raised by third parties with regard to a number of matters, most notably highways; however, details of that issue have already been approved. It should be noted that the highway authority have requested additional conditions on this approval; however, as noted by the Inspector, highway matters have been previously considered and a number of the conditions would be duplicated on the outline too; as such no further conditions are considered necessary. Furthermore, matters such as drainage have also been considered at the outline stage and need not now be considered as part of this application.
- 8.9 Conclusion – Having regard to the matters under consideration, layout and landscaping, it is considered that additional information has been submitted to address concerns highlighted by the Inspector when determining the appeal against application 17/00768/RM. Trees along the western boundary will not be detrimentally impacted by the development and an important hedgerow will be relocated. Furthermore, the layout has altered to ensure that no buildings or other structures are within or adjacent to the RPA of existing trees. As a result the application is deemed to comply with policies in chapters 2 and 3 of the North East Derbyshire Local Plan and guidance within the NPPF.

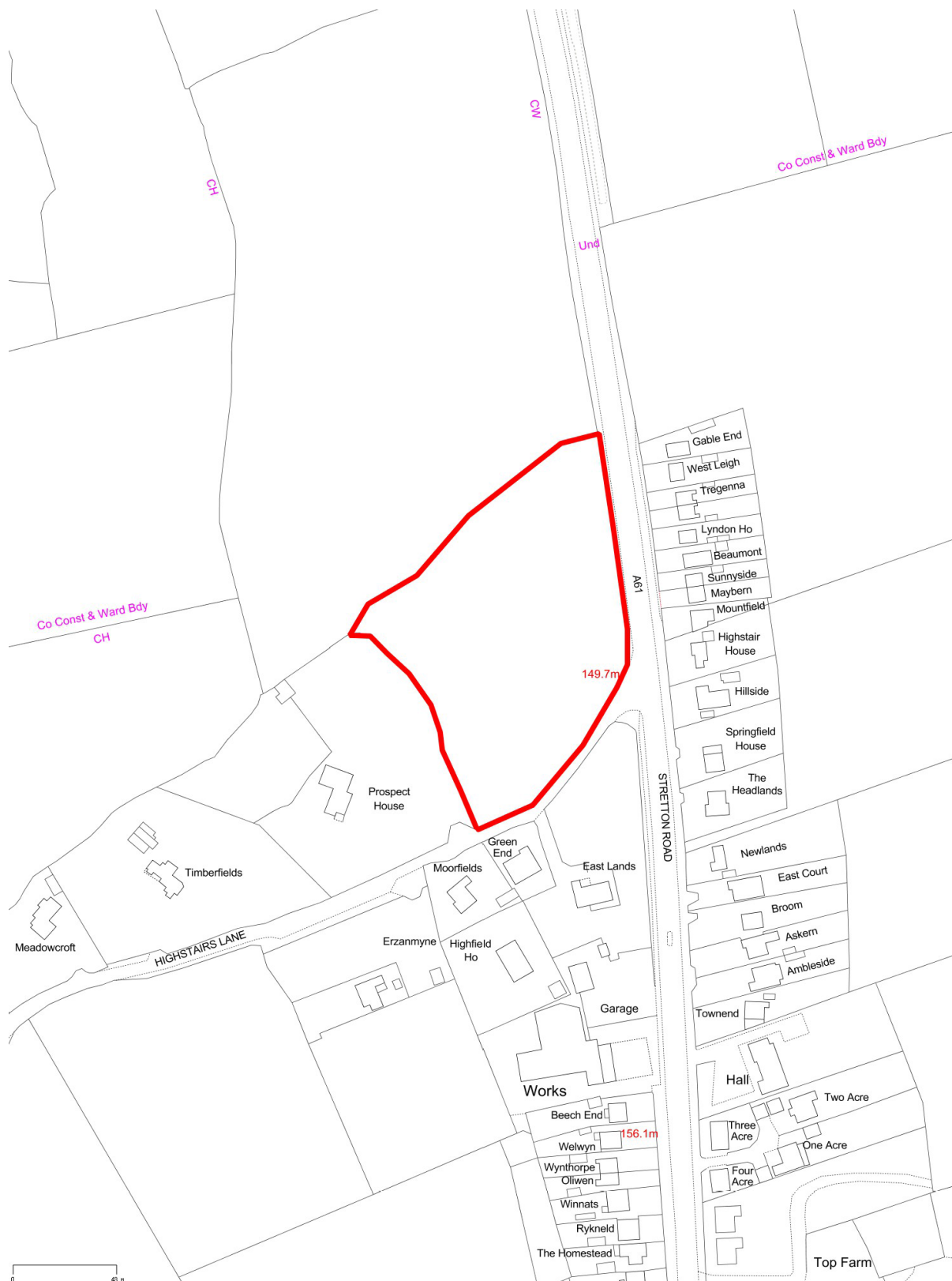
9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objection subject to conditions
<u>County Planning:</u>	No comments received
<u>Environmental Health:</u>	No objection
<u>Drainage:</u>	Previously conditioned
<u>Access Officer:</u>	N/A
<u>Footpath:</u>	No impact on ROW's
<u>Neighbour:</u>	9 object 1 support
<u>Others:</u>	
<u>Ward Member:</u>	No comment
<u>Parish Council:</u>	No comment

10.0 RECOMMENDATION

That Reserved Matters approval is granted subject to conditions, as outlined below, the final wording of which is delegated to the Planning Manager (Development Management), and in accordance with the signed Unilateral Undertaking.

- 1 Approved drawings
- 2 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order), no first floor rear facing windows, dormers in the roof or Juliet balconies shall be inserted into the rear elevation of plot 7, save for the window shown on the approved drawing which shall have obscure glazing installed in order to provide a level of obscurity at least equivalent to levels 3, 4, or 5 on the Pilkington Glass scale and the glazing shall be retained as such thereafter.
- 3 Prior to the commencement of development, fencing shall be erected around the route protection area of the trees as identified on the approved drawings and tree survey. The fencing shall be retained in position until all the building works hereby approved have been completed. The area within the fenced/protected area shall not be used for storage or the parking of machinery or vehicles and the ground levels shall not be altered.
- 4 Notwithstanding condition 24 of outline permission 15/00910/OL and information submitted with this reserved matters approval, prior to the occupation of the dwellings hereby approved a scheme for the storage of refuse and recycling bins and access for refuse collection vehicles ("the refuse collections scheme") shall be submitted to and approved in writing by the Local Planning Authority. The refuse collection scheme as approved shall be implemented as approved thereafter.



NED/18/00812/RM

APPLICATION NO. 18/00801/FL

APPLICATION Application for the demolition of the existing dwelling and garage and the construction of two new detached dwellings with integral garages, creating one new vehicular access on to Highstairs Lane (Revised scheme of 18/00117/FL)

LOCATION Erzamine, Highstairs Lane, Stretton, Alfreton

APPLICANT Mr H&J Rowles

CASE OFFICER Aspbury Planning Ltd – Denise Knipe

DATE RECEIVED 7 August 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Councillor Butler

REASON: None given.

1.0 SITE DESCRIPTION

- 1.1 The application site relates to a plot of land adjoining, and including, an existing bungalow known as Erzamine. The site lies outside the Settlement Development Limit boundary (SDL) and so in the countryside for planning purposes. Highstairs Lane abuts the northern boundary of the site, which is defined by a mature hedgerow.
- 1.2 There is also a hedgerow interspersed with trees along the west boundary separating the site from open farmland beyond and also along the south boundary. To the east are residential dwellings and a commercial site sits to the southeast with access to it obtained directly from the A61.
- 1.3 The area subject of the application relates to an approximate area of 0.26 hectares which has the characteristics of a dwelling set in a small garden area and an enclosed paddock. Tree and shrub clearance has already taken place at the site.
- 1.4 The topography of the site is such that it falls steeply across the site north to south and from Highstairs Lane the levels drop approximately 4.5m towards the south west boundary.

2.0 PROPOSAL

- 2.1 The proposal seeks full planning permission for the demolition of the existing bungalow and detached garage that currently occupy the site and the construction of two detached dwellings. The application seeks to address the previous refusal of a similar application by the Council referenced NED/18/00117/FL.
- 2.2 The dwellings, as proposed, would still be sited west to east across the site, as previously, exploiting the topography of the site and fronting Highstairs Lane to take advantage of the extensive views from the rear of both units that exist to the south and be staggered back from Highstairs Lane.

- 2.3 The two dwellings have been amended in scale and cut into the site to a greater degree than previously and would consist of one and two storey elements. This is a reduction of one storey from the previous application for plot 2 specifically. The width of the proposed dwellings has also been reduced which gives a greater separation distance between the two plots. Both plots take on similar design features and complement each other.
- 2.4 Each dwelling would have its own access off Highstairs Lane. Plot 1 would utilise the existing access and plot 2 would utilise the access as approved in principle under outline planning permission 17/00433/OL.
- 2.5 From Highstairs Lane the dwellings would be seen as predominantly single storey units with the west wings of both designed as two storey elements. This is replicated on the rear elevation.
- 2.6 Plot 1 contains a bedroom (with en-suite bathroom), living room, kitchen, dining room, utility room, WC and an entrance lobby along with the garage all accessible at road level. Two further bedrooms (one en-suite), a study/reading room and a bathroom are provided on the lower ground floor along with a plant room/store. The ridge line of this dwelling has been reduced by 1.26 metres from the previously refused scheme and also reduced in width.
- Plot 2 would still be the larger of the two dwellings and would have 5 bedrooms. One bedroom (with en-suite), open plan kitchen/diner, living room, study and a cloakroom (along with the garage) would be provided at ground floor level. There would be a further 4 bedrooms (two en-suite) and two further bathrooms provided at lower ground level along with a plant room and laundry/store room. The roof line on Plot 2 has been reduced by 1.95m and 1.2 m.
- 2.7 It is proposed to construct the dwellings using natural stone with elements of weather board cladding with a slate finish roofing material. Windows would be constructed of powder coated aluminium.
- 2.8 The application is supported by a Design and Access Statement which discusses the design concept of the scheme and how the revisions have sought to address the previous reasons for refusal. It is stated that the layout and orientation of the units reflect the general character of Highstairs Lane with the design considered by the applicant to make far greater use of the topography of the site to create two dwellings which nestle into the land reflecting the site's context, setting and design objectives.

3.0 AMENDMENTS

- 3.1 No amendments have been received subsequent to the submission of the application.

4.0 PLANNING HISTORY

- 4.1 16/00433/OL - Outline application with all matters reserved for one additional dwelling (Amended Plan/Amended Title) Status: Conditionally Approved.
- 4.2 18/00117/FL - Demolition of the existing dwelling and garage and the construction of two new detached dwellings with integral garages, creating new vehicular access on to Highstairs Lane (Amended Plans) Status:

Refused on grounds of the development being incongruous in scale, massing, design and orientation, failing to be in keeping with, and representing a prominent intrusion into, the countryside. Furthermore the replacement unit would be materially larger than the existing dwelling to be replaced having a greater impact upon its setting.

5.0 PLANNING POLICY CONSIDERATIONS

5.1 The Development Plan comprises of the saved policies of the North East Derbyshire Local Plan (adopted November 2005).

5.2 In addition, the Publication Draft Local Plan 2014-2034 has been submitted to the Secretary of State for examination. The Council is now at an advanced stage in the production of the new Local Plan which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.

5.3 North East Derbyshire District Local Plan (relevant policies):

- GS1: Sustainable Development
- GS6: New Development in the Countryside
- BE1: General Design Principles
- NE1: Landscape Character
- H3: Housing Development outside the Settlement Development Limits
- H12: Design and Layout of new House
- T2: Highway Access and the Impact of New Development
- T9: Parking Provision for Development
- R9: Equestrian Development

5.4 Publication Draft Local Plan 2014-2034 (relevant policies):

- SS1 - Sustainable Development
- SS2 - Spatial Strategy and the Distribution of Development
- SS9 - Development in the Countryside
- LC4 - Type and Mix of Housing
- SDC3 - Landscape Character
- SDC12 - High quality Design and Place-Making
- ID3: - Sustainable Travel

5.5 National Planning Policy Framework

The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development that give rise to the need for the planning system to perform a number of roles; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net

gains across each of the different objectives) which include and support economic, social and environmental objectives.

5.6 Paragraph 213 of the NPPF advises that existing policies [of Development Plans] should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

5.7 The NPPF does identify that the protection of the natural environment and good design are important material issues to be addressed when assessing planning applications.

5.8 Other SPD's/Guidance

A. Successful Places Guidance

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

6.1 The nearby neighbours were consulted by letter and a site notice posted outside of the site on the 31st August 2018. As a result two objections from interested parties have been received. The objections are summarised below:

- The development is outside of the defined settlement limits of Stretton (as detailed in NE Derbyshire Local Plan)
- Incongruous in scale, massing, design and orientation
- Not in keeping with the setting
- Prominent intrusion into the countryside
- Failure to conserve or enhance the natural environment
- Amended proposal has not addressed the previous refusal

6.2 **Highways Authority:** No objection subject to conditions to secure visibility splays and parking.

6.3 **Coal Authority:** initially Objected to the application. Following submission of a Coal Mining Risk Assessment the Coal Authority withdraws its objection subject to the imposition of a condition requiring a scheme of intrusive site investigations.

6.4 **Environment Health:** No objection - The proposed development site is located in an area with a coal mining legacy and there is the potential for shallow workings to be present which could be a source of contamination. In addition historical mapping would indicate there were opencast workings within the vicinity of the site. Therefore, given the sensitivity of the proposed development it is recommended that conditions are attached to any permission granted for site investigations and mitigation if required.

6.5 **Severn Trent Water Authority:** No comments received.

6.6 **Yorkshire Water Authority:** No comments received.

7.0 PLANNING CONSIDERATIONS

- 7.1 The main planning consideration is whether or not the principle of residential development is supported in this location having regard to the policies within the extant LP and the PDLP and guidance within the NPPF. Thereafter, it needs or be assessed whether or not the development would respect the character of the area, protect residential amenity and ensure no adverse impact on highway safety.

8.0 PLANNING ASSESSMENT

Policy Considerations

- 8.1 The site lies outside of the Settlement Development Limits (SDL) for Stretton. Under the policies set out in the extant Local Plan (2005) (LP) and the Publication Draft Local Plan (2014-2034) (PDLP) the proposal is regarded to fall within a countryside location and policies GS1, GS6, BE1, and H3 of the extant Local Plan and policies SS1, SS2, SS9, SDC3 and SDC12 of the PDLP are the most relevant which need to be considered.
- 8.2 The proposal lies within the designated open countryside (LP GS6 and PDLP SS9) where policies restrict development unless there is a genuine need for development in the countryside. LP policy GS1 and PDLP policies SS1 and SS2 seeks to ensure that all development proposals have regard to the need to maintain or improve the quality of life of communities, maintain economic growth and preserve or enhance the environment of North East Derbyshire and contribute towards achieving a sustainable pattern of development. It favours development within settlement limits unless there are other policies in the plan that supports the proposal.
- 8.3 Policy GS6 of the extant Local Plan and policy SS9 and SDC3 of the PDLP seeks to ensure that proposals outside of defined settlements are in keeping with a countryside location, do not require major new or improved infrastructure and do not represent a prominent intrusion.
- 8.4 With regards to design LP policy BE1 and PDLP policy SDC12 seeks to ensure that the design, scale and massing of development is in keeping with the surrounding area.
- 8.5 LP policy H3 supports new dwellings in the open countryside providing it/they relate(s) to a change of use of a building, is necessary for the operations of agriculture or other uses appropriate to a rural location, **replacement dwellings that are not materially larger than it replaces or has a greater impact on its setting** and affordable housing. This objective is carried forward within emerging policy SS9 with the slightly reworded objective advising that the replacement is not significantly larger than the building it is to replace.
- 8.6 These policies are generally considered by Officers to be in conformity with the NPPF in terms of seeking sustainable development, protecting the countryside from inappropriate development and seeking to secure good design and so may be afforded weight in the consideration of this application.

Principle of Development

- 8.7 The site, the subject of this application, has an extant permission for the construction of a single new dwelling on the land adjacent to the existing bungalow that exists on the site (see history above). It is therefore considered that the principle of two dwellings, one granted consent and one existing/replaced, being located on the site is acceptable in principle.
- 8.8 Policy H3 (c) of the Local Plan allows for replacement dwellings in the countryside provided that the number of dwellings would not be increased and any resulting dwelling would not be materially larger than that which it replaces or have a greater impact upon its setting.
- 8.9 The revised proposal has been reduced in scale seeking, in part, to comply with this policy. However it is the Officers opinion that the dwellings as proposed are still both materially larger than the existing bungalow and so the proposal is not considered to comply with this specific policy and Officers conclude that the development would have a greater impact on the character of the area than the existing as discussed below. In this respect it fails to fulfil the criteria of policy H3(c) and so is unacceptable in terms of planning policy.
- 8.10 Therefore, whilst the principle of two new dwellings on the site, for the reasons set out above, is acceptable in principle, the manner in which the dwellings are presented in this case would be contrary to planning policy.

Impact upon the Character of the Area.

- 8.11 The application seeks full planning permission for the demolition and clearance of the site to allow two detached dwellings to be constructed. Outline planning permission has been granted for an additional dwelling on the site with the indicative layout plan submitted showing it to be sited adjacent to the existing dwelling. The overall built form of the indicative plan accompanying the approved outline proposal would suggest something modest in size and comparable in size with the existing dwelling, leaving the area to the west undeveloped as residential garden.
- 8.12 It is acknowledged that the two proposed dwellings have been reduced in size from those previously proposed and refused. However, they would still be both larger than the existing bungalow, which is a modest single storey unit, and orientated so as to run across the site. This increases both their visibility and impact, as opposed to following the general location of the existing dwelling and that shown on the indicative plan supporting the approved outline scheme, which would see two dwellings sit side by side adjacent to the existing settlement edge.
- 8.13 As a result, the two proposed units would be highly visible within the open countryside and landscape, extending the built form of the settlement and resulting in an unacceptable encroachment into those areas. Whilst the size and scale of the dwellings has been reduced they are still large in comparison with the existing bungalow on site and would still result in the massing of the two units being highly visible when viewed from the open areas to the south and west, including from a public footpath, resulting in a highly visible encroachment in to the open countryside.

- 8.14 The montage accompanying the application shows an image of how the proposed development would look from the south and seeks to demonstrate that the development would be acceptable. The reduction in ridge heights and widening the separation between the two buildings has sought to overcome the Council's concerns however it is not considered that it demonstrates that the scheme now proposed would be acceptable. On the contrary Officers consider it identifies that the new development would still be highly visible and as a result of its layout and orientation would have a significant, and adverse, impact on the countryside.
- 8.15 Members should also note that the principle of an additional new dwelling was accepted when the Council could not demonstrate a 5 year housing land supply providing special circumstances why the new dwelling was approved. However, this acceptance in principle does not preclude consideration of the overall impact of the new development on the character of the area.
- 8.16 This revised proposal is still, therefore, considered, by reason of the dwellings design, scale, massing and orientation to represent a dominant built addition in this edge of settlement location. The sub division of the plot in the way presented has not overcome, in the view of Officers, the reasons for the recent refusal and still results in the development being incongruous when viewed from the south and west impacting adversely on the character of the landscape and the setting of the village.
- 8.17 In addition, plot 1 (the smallest of the two) as a "replacement dwelling" is still materially larger than that it replaces and so this element of the scheme is contrary to the Development Plan (and emerging plan) policies.
- 8.18 This revised application still presents the sub division of the plot in a way that results in the development being incongruous when viewed from the south and west and which impacts adversely on the character of the landscape and the setting of the village. Furthermore the dwellings have been designed to maximise the views to the south therefore screening of the development through an enhanced landscape of the southern boundary is unlikely to be undertaken or achieved. In this respect therefore Officers contend the proposal fails to meet the requirements of LP policies GS6, BE1 and NE1 and PDLP policies SS9, SDC3 and SDC12.

Impact upon Residential Amenity

- 8.19 The nearest residents are located to the east. Moorfields is a dormer style dwelling and has its rear elevation facing towards the proposal site from an elevated location. It contains a small dormer window at first floor level and windows at ground floor. A mature hedge forms the boundary and screens the ground floor windows from views from the application site. Highfield House is a bungalow which has its rear elevation facing onto the application site and is set back off the mutual boundary providing a significant separation distance from the proposed Plot 1 which itself contains no windows in its east facing gable end.
- 8.20 There are further dwellings to the north of the site (across Highstairs Lane) which sit in extensive plots with the dwellings set at a considerable distance back from the road. There is extensive tree coverage in the area and the dwellings are not visible from the site.

- 8.21 For these reasons it is considered that there would not be any detrimental loss of residential privacy to existing residents and the new dwellings are designed such that the amenity of their own occupants would be acceptable. The proposal is therefore considered to accord with the North East Derbyshire Local Plan policies BE1 and H12.

Highway Safety

- 8.22 Highstairs Lane is a single width rural road which is winding in nature. Due to the design of the highway the speeds are reported by the Highways Authority to be low. The access arrangement has been agreed with the granting of the outline consent with both plots having separate access and parking. Therefore no objections have been raised by the Highways Authority.
- 8.23 At the point of the proposed entrance there is a passing bay which will remain available for its purpose. With the presence of the access into the site this will remove the ability for vehicles to be parked there, which would be of a benefit to the highway users.
- 8.24 It is not concluded that the development would adversely affect highway safety.

Other Issues

- 8.25 The village of Stretton has a limited number of services including a pub/restaurant, petrol station with small shop, nursery, car repair garage, beauty salon and Parish Hall. The village is served by public transport which gives residents good access to Clay Cross, Alfreton and Chesterfield where a wide range of facilities and services are available. The provision of one further dwelling would, whilst limited, provide opportunity for some local spend supporting the existing services and facilities.
- 8.26 Whilst there would be some economic benefits associated with the construction of the development this would be short lived. There would also be some revenue from the addition of a dwelling for Council Tax and new homes bonus although these factors are limited in scope.

Conclusion

- 8.27 The proposal seeks to construct two detached dwellings. The site lies outside of the Settlement Development Limits for Stretton, where new dwellings would not be supported under the LP policies GS1, GS6 and H3 and PDLP policies SS1, SS2, SS9 and SDC3.
- 8.28 The site lies within open countryside outside of the defined settlement development limits as set out in both the LP and PDLP. New residential development of the site is therefore contrary to the relevant saved policies of the Development Plan.
- 8.29 However, permission has been granted for a single new dwelling on the site and policies do allow for one for one replacement dwellings subject to certain criteria.

- 8.30 However, due to their orientation, scale and massing it is considered that the two new proposed dwellings would have a significant and harmful impact on the character of the area. Whilst the scale of the proposed dwellings has been reduced from those previously refused consent it is not considered that the amendments have adequately addressed the reasons for the refusal and the proposal still presents a development that would be harmful to the area located as it is in this edge of settlement location. No other factors are considered to override this concern and the new “replacement” dwelling is materially larger than that it replaces and so it fails to satisfy the planning policies governing replacement dwellings in the countryside.
- 8.31 In conclusion it is considered that the proposal is contrary to the policies of the extant and emerging Local Plans which restrict development, including new housing, in the countryside and which seek to ensure that new development is sympathetic to the area in which it is located. On this basis the application is recommended for refusal.

9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objection
<u>County Planning:</u>	N/A
<u>Environmental Health:</u>	No objection, subject to pre-commencement conditions
<u>Drainage:</u>	No comments received
<u>Access Officer:</u>	N/A
<u>Footpath:</u>	N/A
<u>Neighbour:</u>	Two Objectors
<u>Others:</u>	
<u>Ward Member:</u>	Councillor Butler call in
<u>Parish Council:</u>	No comments received

10.0 RECOMMENDATION

That Planning Permission is **REFUSED** for the following reason(s)

The proposal would result in development in the countryside and outside of the defined Settlement Development Limits of Stretton as defined in the North East Derbyshire Local Plan. The proposals if granted would result in a development that would be incongruous in scale, massing, design, and orientation, fail to be in keeping with and represent a prominent intrusion into the countryside and fail to conserve or enhance the natural environment.

Furthermore, while allowing for replacement dwellings in the countryside planning policy seeks to ensure such dwellings are not materially larger than the one it replaces or have a greater impact on its setting. By reason of its scale, massing, design, orientation and positioning in the site the new dwelling would be materially larger than the one it replaces and have a greater impact on its setting.

Overall, the proposals would result in significant harm to the landscape and countryside and be contrary to policies GS1, GS6, BE1, H3 and NE1 of the North East Derbyshire Local Plan, policies SS1, SS2, SS9, SDC3 and SDC12 of the Publication Draft Local Plan and the National Planning Policy Framework when read as a whole.



NED/18/00801/FL

APPLICATION NO. 18/00420/FL

APPLICATION Application for new Agricultural Steel Barn (Amended Plan)

LOCATION Land to the west of Erzamine, Highstairs Lane, Stretton

APPLICANT Mr Riggott

CASE OFFICER Graeme Cooper

DATE RECEIVED 28 April 2018

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Cllr Cooper

REASON: Due to the number of local objections relating to the impact of proposed development on the character of Highstairs Lane, neighbouring amenity and highway safety. A site visit by members of planning committee was requested.

The Committee Site Inspection Group is to visit the site to view the location of the site relative to the locality, the impact upon the surrounding street scene and landscape character, along with the amenity of neighbouring properties and the impact upon highway safety.

1.0 SITE DESCRIPTION

- 1.1 The application site forms an agricultural field on the south side of Highstairs Lane. The field forms part of a wider land ownership of the applicant who lives at Fern Lea, located off Main Road to the south east. The access into Fern Lea from the Main Road is along a narrow driveway which leads to a gravelled area to the rear and a large agricultural storage building.
- 1.2 The proposed barn would be located in a gently sloping field, with land levels falling from east to west. The site is edged by a mature native hedge to the north, with Highstairs Lane set down much lower than the application site. A single vehicular access point is provided to the north east corner of the field.
- 1.3 Other boundaries to the application site are more open in character, made up of a mix of sparse hedgerow and tree planting. The application site is framed by post and wire fencing, with the land used for the grazing of sheep.
- 1.4 Set up in an elevated position to the east of the application site is Erzmaine, which is a detached bungalow. Outline planning permission for one dwelling (17/00433/OL), with all matters reserved has been approved on the site. Another full application (18/00801/FL) is to be considered at Planning Committee for the demolition of the bungalow on site and for the erection of two new detached dwellings. The plot is edged by a mature hedge to the north.
- 1.5 Meadowcroft and Timberfields sit opposite the application site to the north, these are large detached properties set within large grounds, both taking access from Highstairs Lane. Highstairs Lane also serves a number of other residential properties to the west and east.
- 1.6 The site is located within open countryside, outside the built framework of Stretton to the east.

2.0 PROPOSAL

- 2.1 The initial submission was for the erection of an agricultural barn measuring 20m by 10m, with a pitched roof of a maximum height of approx. 5m. The barn

would have been set approx. 25m into the site, cut into the slope of the site surrounded by a large swathe of hardcore. It would be constructed from powder coated steel box sheeting and include a lower course of blockwork and powder coated roof. Due to the extent of ground works required a stone Gabian basket retaining wall was proposed.

- 2.2 Concern was raised by officers that the proposed barn, associated ground works, retaining features and hardstanding would be harmful to the character and appearance of the site and the surrounding countryside. Concern was also raised as to the siting and the scale of the proposed building away from other buildings under the applicant's ownership, as such a justification statement was requested.

3.0 AMENDMENTS

- 3.1 Following a site meeting between the case officer, applicant and agent it was agreed to re-site the building against a mature hedge to the north of the site on a more level area.
- 3.2 The amended building would measure 20m by 10m, with a lower eaves height of 3.5m rising to 4.5m on the side away from the lane and have an overall height of approx. 4.75m, with a reduced roof pitch. A single point of access would be provided to a smaller area of hardcore stone plainings and a twin track would link to a new tarmac site entrance. The applicant has confirmed in writing that they would be willing to finish the building in timber boarding instead of steel sheeting. The finished floor level of the building would be approx. 1m higher than that of Highstairs Lane to the north.
- 3.3 The amended scheme included the submission of an updated justification statement, topographical/sections plan and a Coal Mining Risk Assessment.

4.0 PLANNING HISTORY

- 4.1 No relevant planning history.

5.0 DEVELOPMENT PLAN POLICIES

- 5.1 The most relevant policies of the Local Plan are:-

GS1	Sustainable Development
GS6	Open Countryside
NE1	Landscape Character
NE9	Development and Flood Risk
BE1	General Design Principles
T2	Highway Access and the Impact of New Development
CSU6	Contamination Land

- 5.2 The Council is now at an advanced stage in the production of a new **Local Plan (Publication Draft)** (LPPD) which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018 and is due to be heard at examination in November 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.

- 5.3 The most relevant policies contained in the Local Plan (Publication Draft) include:

SS1	Sustainable Development
SS9	Development in the Countryside

SDC3 Landscape Character
SDC11 Flood Risk and Drainage
SDC12 High Quality Design and Place making
SDC14 Land Potentially affected by Contamination or Instability

- 5.4 The overarching aims of the National Planning Policy Framework (NPPF) are a significant material consideration and include a strong presumption in favour of sustainable development.

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

- 6.1 The application was validated on 3rd May 2018 and was due to expire on the 27th June, however an extension of time was agreed until 30th November to allow time for the applicant to work up an amended scheme, resolve objections of the Coal Authority and allow the application to be heard by members of planning committee. A site visit was undertaken by the case officer on 21st May and a site notice placed adjacent to Highstairs Lane. The site notice expired on 11th June.
- 6.2 The **Parish Council** raised no comments to the proposed development.
- 6.3 **A Local Ward Member** requested that, due to the level of objections from local residents, the application be heard by members of planning committee and that a site visit be undertaken prior to the meeting.
- 6.4 The **County Highways Authority** was consulted on the amended scheme and raised no objection, subject to the building being made ancillary to the applicant's property so that it cannot be used by third parties. The Highways Authority is satisfied that the proposed building would not result in a significant increase in traffic generation associated with the existing access. A condition relating to the first 5m of the access being solid bound is proposed by the Highways Authority.
- 6.5 The **Councils Environmental Health Officer (EHO)** was consulted on the proposed development and considered the submitted amended plans. It is noted that the building would be re-sited further to the west of the original position. The supporting documents submitted with the application indicate that the barn will be used primarily for the storage of winter fodder and agricultural equipment, and that the barn is unlikely to be accessed on a daily basis. It is the EHO's understanding that the barn will not be used for housing of livestock, which can be controlled if permission is granted by condition. The number of representations received from local residents is noted regarding the potential adverse impact on amenity from odour, noise, dust and vermin. It is noted that the revised siting is still relatively close to residential properties and although these are located on the other side of Highstairs Lane the main amenity space for some of these properties is to the south. Given the proposed use of the barn and the ability of the Council to impose conditions regarding its use, it is the EHO's view that good farm management should ensure that there is no adverse impact upon the amenity of neighbouring residents and therefore it is not considered that the EHO could sustain a refusal. The EHO advises that should complaints be received relating to potential statutory nuisance (odours, noise, etc.) associated with the use of the building the EHO would have to undertake an investigation under the provisions of the Environmental Protection Act 1990. Where a statutory nuisance is found to exist or is likely to occur the EHO is obliged to serve an abatement notice.

- 6.6 The **Coal Authority** was consulted on the proposed development and note that it is located in a Development High Risk Area. The site and surrounding area contains a number of coal mining features which need to be taken into consideration. As such a Coal Mining Risk Assessment (CMRA) or equivalent was requested. The Coal Authority considered the submitted CMRA and withdrew its objection subject to the imposition of a condition to secure site investigation works being undertaken on site.
- 6.7 2 supporting letters have been received from local residents, raising the following comments:
- The applicant is a good custodian of the land in question, maintaining boundaries and fencing
 - The land in question is used to graze sheep
 - The barn would not be detrimental to the land, in keeping with the area
 - Resident of Welwyn, Main Road has never experienced smells, dust, noise, fires or vermin from existing buildings owned by applicant
 - Barn is appropriate to use of land and part of the countryside
- 6.8 26 objections have been received in relation to this application. 20 of the 26 objections were of the same format and raised the same issues, but were all signed individually. All objections came from persons living in the general locality. The objections raised the following matters:
- Proposed barn would be unsightly and too large, totally out of keeping with the character of Highstairs Lane
 - Unsafe access into corner of field
 - Increase in vehicular movements along with other developments on Highstairs Lane
 - Building would have a negative impact on the beauty of Highstairs Lane due to its close proximity to the hedge to the north
 - Highly visible from Highstairs Lane
 - No other similar buildings in vicinity of the site so it will stand out like a sore thumb
 - Building should be relocated or constructed from Derbyshire stone
 - Risk building could be converted to dwelling
 - Harmful to rural amenity of users of the countryside
 - Would be in direct line of sight from Moorfields to the north
 - Building too large for agricultural operation
 - Access is at the narrowest part of Highstairs Lane
 - Building would be incongruous to the rural landscape due to its size, location and design
 - The proposed building would tower over the hedge to Highstairs Lane
 - No steps in the design to limit the buildings impact
 - The size of the building will mean that the use of the site will intensify
 - Use of the building will increase noise for neighbouring residents
 - The location of the proposed access is within 100 yards of two other applications to increase the number of properties, therefore increasing traffic movements onto Highstairs Lane
 - Resident of Timberfields will no longer be able to benefit from the quiet enjoyment of his property, due to the building being only a few metres from garden, which will cause noise, dust, odours and vermin, which will form a continual and intolerable nuisance

- Residents of Timberfields considers that the building by virtue of its bulk, size, height and materials of construction would form an unacceptable visual and aesthetic impact on their property and from Highstairs Lane
- Due to its position close to the boundary of the site, the bulk, height, size and materials of construction would cause a visual intrusion onto Highstairs Lane
- Highstairs Lane is a quiet countryside lane, such a farming operation so close to the land would cause noise, dust, odour and vermin
- The proposed building should be moved closer to his property, Fern Lea
- The proposed building would be 10m from land under the ownership of Timberfields to the north and would directly obstruct the open view in a south westerly direction having an adverse impact on the reasonable enjoyment of the property, contrary to local plan policy BE1
- The proposal would fail to meet the tests of emerging policy SS9 as it would fail to respect the form, scale and character of the landscape, through careful siting, scale, design and use of materials
- The proposed building does not incorporate adequate air circulation for storage of hay, therefore it is not fit for purpose
- No justification has been put forward for the scale of the proposed building
- If approved, the use of the building should be restricted so not to house livestock
- Levels of the site are not accurately illustrated. It is considered that a degree of cut and fill will be needed in the proposed location

7.0 PLANNING CONSIDERATIONS

- 7.1 The planning considerations for this application are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding countryside, the amenity of neighbouring uses and highway safety issues.

8.0 PLANNING ASSESSMENT AND SUMMARY

Principle of Development

- 8.1 The application site is located in open countryside where new development will only be permitted where it is for an operation of a use appropriate to such a location; it is in keeping with the character of the countryside; causes minimal disturbance to farming and minimises the loss of agricultural land, particularly that of the best and most versatile quality; does not require major new or improved infrastructure; causes minimal problems of noise, disturbance and pollutions and it does not represent a prominent intrusion into the countryside.
- 8.2 The Emerging Local Plan (Publication Draft) states that development will be approved where it is necessary for the efficient or viable operation of agriculture and respects the form, scale and character of the landscape through careful siting, scale, design and use of materials.
- 8.3 The applicant submitted a supporting justification statement stating that the land is currently farmed on a part time basis, but he owns 20 acres in total in the immediate locality. The land holding in question was purchased two years ago and the applicant is looking to increase his farming activity. The proposed barn would allow the applicant to store machinery and feed during the winter months, whereas at present hay is wrapped in bales and stored in a field approximately 1 mile away from the site. Due to the increased number of sheep this current arrangement is not sustainable, as the operation would require the storage of 400 bales of winter feed. The barn has therefore been designed to accommodate this requirement.

- 8.4 Concerns have been raised that the proposed barn could be converted to a dwelling. However it should be noted that the application is for an agricultural barn and its conversion to a dwelling is not under consideration. Any future conversion would require the submission of a planning application at a later date and would need to accord with the Councils conversions policy. This is not a material consideration to the determination of this application.
- 8.5 In view of the above, officers consider that the principle of the development is acceptable.

Impact on the Character of the Countryside

- 8.6 The proposed development involves the erection of an agricultural storage building on land to the south of Highstairs Lane, Stretton. The building would be sited back from a mature hedge, adjacent to the public highway which is set at a lower level.
- 8.7 The proposed building would measure 20m by 10m and submitted plans illustrate that the building would be constructed from powder coated steel sheeting, with a low course of blockwork, however the applicant has confirmed in writing that they would be willing to use timber boarding in lieu of steel sheeting. One large door opening would be provided in the south east corner of the building. The eaves height would measure 3m at the road side and 4m to the field to allow vehicular access. The roof pitch would be shallow in design. A small hardcore stone plaining turning area would be created on the field side of the building and a twin track of plainings would extend to the site access onto Highstairs Lane to the north east. The existing field access would be upgraded to solid tarmac to allow all year round access. The existing field gate would be retained.
- 8.8 Local Plan Policy states that development should be in keeping with the character of the countryside, not require major new or improved infrastructure and not represent a prominent intrusion into the countryside.
- 8.9 Concern has been raised by local residents that the proposed barn would be too large, unsightly and represent an incongruous addition which would tower above the hedgerow adjacent to the highway and be totally out of keeping with the character and appearance of the site, Highstairs Lane and wider countryside. The representations considered that the barn would be highly visible from Highstairs Lane and have a negative impact on the area and that it should be relocated closer to the applicant's property or constructed from Derbyshire Stone. There is also concern that the levels of the site are inaccurate and development would involve a degree of cut and fill. Furthermore, it is not considered that there are any other buildings of this nature in the vicinity of the site. These matters are considered below.
- 8.10 The proposed building would be of a standard agricultural design, constructed from powder coated sheeting, of a colour to be agreed by the Local Planning Authority (LPA). However following discussions with officers the applicant is willing change the finished appearance of the building from steel sheeting to timber boarding. It is considered that the use of timber boarding would have a more acceptable impact on the character and appearance of the countryside. The proposed building would be set behind a mature hedge, approx. 1m higher than Highstairs Lane to the north. The hedge in question should be retained at a height of 2.5m to ensure that the building is screened from Highstairs Lane, this can be controlled by condition on any decision. Level changes from the site to Highstairs Lane would restrict the public viewpoints of the building, with the building only being clearer seen when approaching from the east. However this

view would be of the gable end of the building. Far reaching views of the building will not be easily achievable and therefore the impact of the proposed building will be localised. Therefore, subject to a condition requiring the submission of timber boarding details, it is considered that the design, scale and materials of construction would be in keeping with the rural nature of the site and the surrounding countryside and not be unduly prominent on the immediate street scene.

- 8.11 The proposal includes the creation of a small area of hardcore plainings forward of the proposed building, a twin track of plainings from the building to the site access and the upgrading of the site entrance to an area of solid tarmac for use all year round. Whilst this represents an upgrading of the site access, it is not considered that this represents major new or improved infrastructure that would be harmful to the character and appearance of the countryside. Furthermore the prominence of the proposed access alterations would be localised and not be unduly prominent on the character of the countryside.

Amenity Considerations

- 8.12 The proposed barn would be located in an agricultural field to the south of Highstairs Lane and utilise an existing field access. The building would be set close to a mature hedge and front into the field to the south. The surrounding area is rural in character with two properties on the opposite side of Highstairs Lane to the north and another single dwelling set up higher than the application site to the east.
- 8.13 Properties to the north of Highstairs Lane include Timberfields and Meadowcroft, both of which are set back from the roadside and set in large plots. These properties both have front and rear garden areas, but are mostly screened from the application site by mature trees and hedgerows, most of which are under the control of the residents in question, along Highstairs Lane. Other properties along Highstairs Lane are located in the vicinity of the application site, but due to their distance from the site are less likely to be affected by the proposed development but may be affected by vehicular movements into and out of the application site.
- 8.14 Local residents have raised concerns that the proposed development would cause issues of noise, dust, odour and vermin to residents opposite on Highstairs Lane. There is particular concern from residents of Timberfields, located opposite the application site, that the proposal would prevent residents from enjoying their outdoor garden space and its use would form a continual and intolerable nuisance, with it being located in direct line of site from Moorfields and Timberlands which would give rise to an unacceptable visual and aesthetic impact on residents opposite. However some existing residents on Main Road who live close to the applicant's property have stated that the existing farm operation causes no noise, odour, dust or vermin issues.
- 8.15 The Councils Environmental Health Officer (EHO) was consulted on the proposed development and initially raised concerns as to the impact of the proposed agricultural barn on Erzamine to the east, resulting in the barn being moved approx. 45m to the west and turned at 90°. It is noted that the barn would be used primarily for the storage of fodder and agricultural equipment. It is also noted that the access to the barn is unlikely to be required on a daily basis and the barn entrance opens out into the field. The EHO considers that the building should not be used for livestock, which can be controlled by condition.

- 8.16 The EHO also notes the number of representations received relating to concerns around potential adverse impact upon amenity due to odour, noise, dust and vermin. It is noted that the revised siting is still in relatively close proximity to residential properties and although these are positioned on the other side of Highstairs Lane the main amenity space for some of these properties is to the south. Given the proposed use of the barn and the ability to impose conditions regarding this (should permission be granted) it is the EHO's view that good farm management should ensure that there is no adverse impact on the amenity of neighbouring residents. Furthermore, if complaints are received relating to potential statutory nuisance, be it noise, odour, etc., associated with the use of the building the EHO would undertake an investigation under the provisions of the Environmental Protection Act 1990.
- 8.17 In view of the above, subject to a condition restricting the use of the building, it is not considered that the proposed building would result in a significant loss of amenity to nearby residential properties and neighbouring land uses.

Highway Safety Considerations

- 8.18 The proposal seeks consent for an agricultural building which would include the creation of a hardcore plaining track and area for turning forward of the proposed building, along with upgrading the existing access onto Highstairs Lane to the north east.
- 8.19 Local residents are concerned that the proposed development would be served by an unsafe access which would increase vehicular movements onto the narrowest section of Highstairs Lane. Residents point out that this proposal along with other schemes along Highstairs Lane would lead to an increase in traffic movements.
- 8.20 The County Highways Authority was consulted on the proposed development and were initially concerned that the proposal may lead to an intensification of an existing access, with visibility constrained by a hedge in the non-critical direction. Clarification was sought to the likely traffic generation from the site and visibility splays from the site.
- 8.21 Amended plans were submitted for consideration by the Highways Authority and it is noted that the access from Highstairs Lane is an existing access and the only point of access to the land in question. Therefore providing that the proposed building is conditioned to be ancillary to the applicant's property and is not used by third parties the Highways Authority does not consider that the proposal would result in a significant increase in traffic generation associated with the existing access. Therefore subject to a number of conditions no objection is made to the proposed development.

Other Material Considerations

- 8.22 The Coal Authority was consulted on the proposed development and note that it is located in a Development High Risk Area. The site and surrounding area contains a number of coal mining features which need to be taken into consideration. As such a Coal Mining Risk Assessment or equivalent was requested during the application process. Until such a report has been submitted the Coal Authority objects to the proposed development.
- 8.23 A Coal Mining Risk Assessment was submitted by the applicant, prepared by H. M. Chambers & Partners, dated October 2018. The report concludes that there is no evidence to suggest that subsidence or ground movement due to past mining activities exist at the proposed development site. However, it is noted that the site was subject of unlicensed opencast workings and that a

workable seam runs north to south through the site. It will therefore be necessary to undertake a site strip and ground investigation to confirm the nature of the ground conditions. Following ground investigations a foundation solution can be found to ensure that the proposed building is not compromised.

- 8.24 The Coal Authority was forwarded the Coal Mining Risk Assessment prepared by H. M. Chambers and Partners, dated October 2018 for consideration. The report concluded that there is a risk from past coal mining activity and that site strip and ground investigations should be undertaken to establish the ground conditions on site. The findings of the investigations should inform any remedial measures which may be required. Therefore subject to the inclusion of a condition on any approval issued by the LPA covering these investigation works, the Coal Authority withdraws its objection.
- 8.25 In considering the proposed development, the Council has a duty to consider the Human Rights Act. Article 1 of the First Protocol guarantees a person the right of peaceful enjoyment of their possessions, which includes their homes and other land. Article 8 guarantees the substantive right of respect for a person's home and everyone has the right to respect for his private and family life and home. In this instance, the Council has a duty to consider the rights of the applicant, nearby residents and the wider community. It is considered that the impact of the proposed development on neighbouring residents and the wider community has been adequately assessed above and would not give rise to an unacceptable impact upon the amenity of neighbouring residents. In addition to the above assessment of the impact of the proposed development, consideration should be given to the applicant who is looking to expand his farming operation. Therefore the above assessment looks to balance the impact of the proposed development against the wider economic benefits of the applicant expanding his business.

Conclusion

- 8.26 Having taken into account all the material planning considerations, it is considered that subject to a number of conditions, the proposal complies with the NPPF and the Councils policies, and does not conflict with the Human Rights Act.
- 8.27 The proposed development would involve the erection of an agricultural barn which would be in keeping with the rural character of Highstairs Lane and the surrounding countryside.
- 8.28 After careful consideration it is not considered that the proposed development would have a significant impact upon the amenity of nearby residential properties and the upgraded access, along with the occasional use would not lead to a demonstrable harm to highway safety.
- 8.29 Matters relating to land stability can be addressed by a suitably worded condition on any approval issued by the Council.
- 8.30 The proposed development is therefore considered to be acceptable.

9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objections subject to a condition
<u>Environmental Health:</u>	No objections subject to conditions
<u>Coal Authority:</u>	No objection subject to a condition

<u>Neighbour:</u>	26 objection & 2 supporting letters
<u>Parish Council:</u>	No comments
<u>Ward Member:</u>	One supporting comment and another requesting the application be heard by members of planning committee and a site visit be undertaken prior to the meeting

10.0 RECOMMENDATION

That planning permission is **APPROVED** with the final wording of the conditions delegated to the Planning Manager:-

CONDITIONS

Time Limit/Scale of Development

1. (1.1) Std Time Limit
2. The development hereby approved shall be carried out in accordance with the details shown on the following drawings unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice:
 - Elevations, Floor, Block and Location Plans (18:023-01 Rev C)
 - Topographical and Site Section Plans (18:023-02)

Design

3. Notwithstanding the approved plans, the building hereby approved shall be finished with timber boarding, details of which shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the design, finished appearance and colour of the timber boarding. The development shall then be carried out in accordance with the approved details.
4. The hedge along the northern boundary of the site shall be retained at a minimum height of 2.5m between the points A and B on the attached plan.

Highways

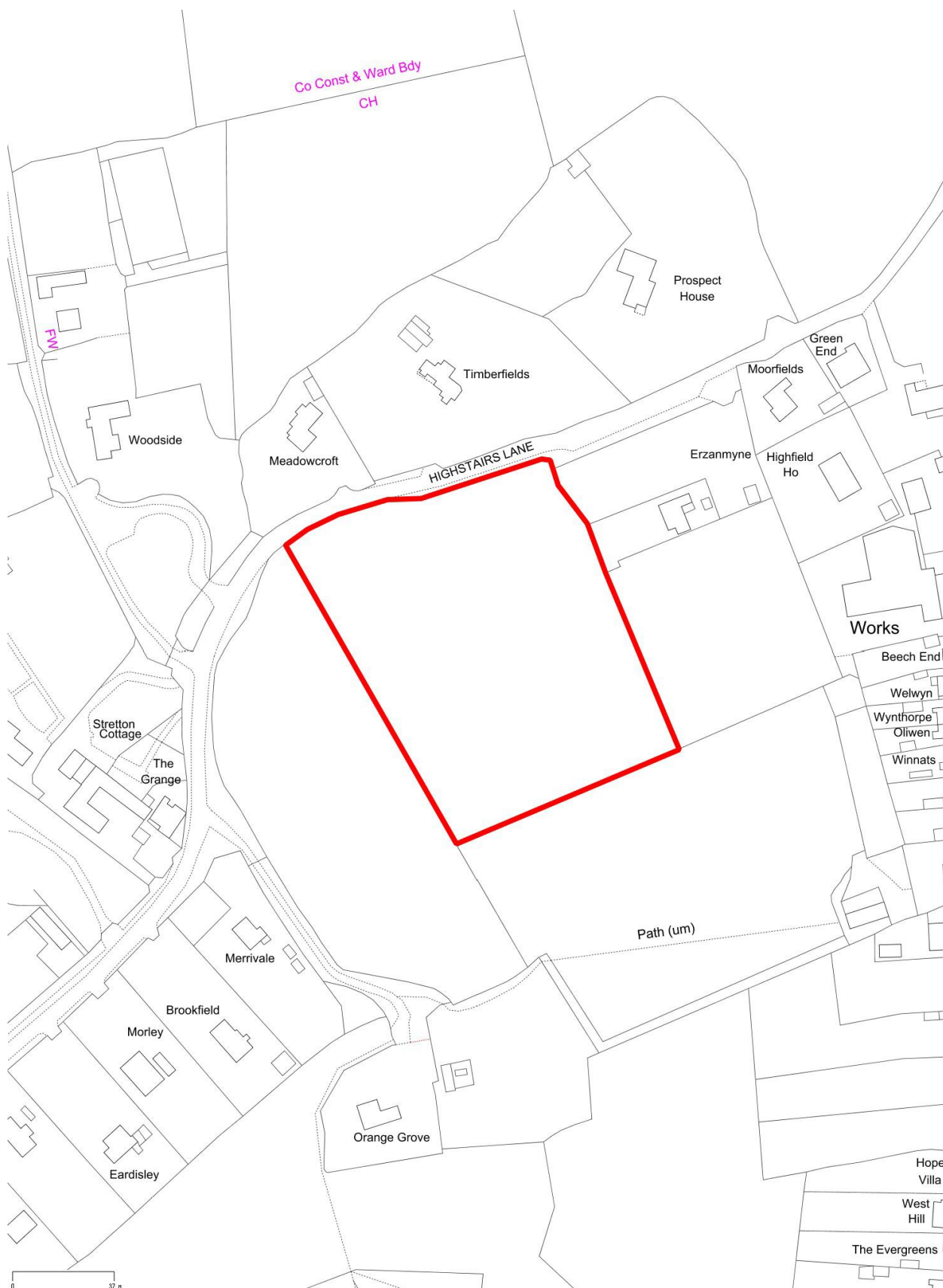
5. The access driveway to Highstairs Lane shall not be surfaced with a loose material (i.e. unbound chippings or gravel etc.) for the initial 5m measured back from the nearside highway boundary to ensure stone material is not transferred out of the site onto the public highway.
6. The building hereby approved shall not be occupied at any other time other than for the purposes ancillary to the agricultural use of Fern Lea, Main Road, Stretton.

Environmental Health

7. The building hereby approved shall not be used for housing livestock.

Land Stability

8. Before development starts, intrusive site investigations shall be carried out in order to establish the exact situation regarding ground conditions on the site. In the event that site investigations confirm the need for remedial works to treat areas of shallow mine workings, details of the remedial action required to ensure the safety and stability of the development shall be submitted to and approved in writing by the Local Planning Authority. The remedial works shall be carried out in full prior to construction commencing.



NED/18/00420/FL