

# Public Document Pack

## Agenda Supplement

### Item 10 - Late Representations



**North East  
Derbyshire**  
District Council

Our Ref:

Contact: Alan Maher

Tel: 01246 217391

Email: [Alan.maher@ne-derbyshire.gov.uk](mailto:Alan.maher@ne-derbyshire.gov.uk)

Date: Monday, 12 July 2021

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 20 July 2021 at 12.30 pm at the Killamarsh Sports Centre, Stanley Street, Killamarsh, S21 1EL**

Yours sincerely

A handwritten signature in black ink that reads "Sarah Steuberg".

Joint Head of Corporate Governance and Monitoring Officer

**For further information about this meeting please contact: Alan Maher 01246 217391**

## AGENDA

### 10 Late Representations - Summary Update Report (Pages 3 - 13)

(Planning Manager – Development Management)  
TO FOLLOW

---



North East  
Derbyshire  
District Council

*We speak  
your language*

**Polish**

*Mówimy Twoim językiem*

**French**

*Nous parlons votre langue*

**Spanish**

*Hablamos su  
idioma*

**Slovak**

*Rozprávame Vaším  
jazykom*

**Chinese**

我们会说你的语言

If you require  
this agenda in  
**large print**

or another  
format  
please call  
us on

**01246  
217753**

If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

## Planning Committee 20<sup>th</sup> July 2021

### SUMMARY OF LATE COMMENTS/REPORT UPDATE

The aim of this report is to seek to avoid the need for lengthy verbal updates that Planning Officers have sometimes needed to provide in the past at the Planning Committee. In consultation with the Chair, it has been decided that on the evening before committee a summary of all the late comments/representations received so far will be emailed to the Committee Members by the Governance Team.

It is possible that verbal updates will still be required at the meeting as sometimes comments are received at the last minute or Officers may wish to amend their recommendations: however Officers will seek to keep verbal updates to a minimum.

At the meeting Officers will only refer briefly to any key points of the case in the summary that has been emailed, as well as providing the usual verbal update for any additional last minute items.

If Members have any queries about the comments or the application itself please feel free to contact the relevant case officer given beneath the title of each summary below.

**PARISH:** Shirland

**APPLICATION:** 21/00342/OL

**CASE OFFICER:** Graeme Cooper

**SOURCE OF COMMENTS:** Email of support (neighbour)

**DATE RECEIVED:** 19 July 2021

**SUMMARY:**

**I write in support of the Application to remove condition 28 (Footpath Link).**

I have examined all published documentation on the North East Derbyshire District Council website with regard to the Application posted, from 23rd March 2021 until the most recent post on 29th June 2021.

Having reviewed each of the individual documents submitted, several reasons are cited for Support/Objection, whether submitted by private individuals or as Consultees.

By thorough examination of these documents it is possible to categorise the Support/Objections into specific reasons; and therefore address each of these opinions. It is my intention herein to:

- endorse, where appropriate, the valid reasons of supporters of the Application (as per **Section A**); and

- counter the reservations posted by those contributors who have Objected/reported negative comments re the Application to remove condition 28 (Footpath Link) (as per **Section B**).

### **Section A: Reasons in support of the Application to remove condition 28 (Footpath link)**

Having reviewed the submissions by each of the supporters of the Application to remove condition 28 Footpath link, I consider each of them to be entirely valid, and summarise these, as follows:

1) The overwhelming concern, expressed by several residents, relates to the jeopardy arising re **safety/security** and the potential that the Footpath may encourage "**anti-social behaviour**" and give a "cloaked" entry and exit route, whether on foot, motorcycle or moped, for the commission of crime within the Northfield enclave, where no such issue persists at present.

**Charlotte Stainton, Chartered Planning Consultant**, in her submission dated 24th February stipulated that "The link would create a long narrow pathway, with 1.8m fencing to each side and therefore there would be very limited natural surveillance for the majority of its length. This would enable people to loiter unseen in this pathway at the side of the existing

property, number 18 Birkinstyle Lane, as well as at the side of the garden associated with plot 3 (now known as number 14). This is a serious potential security and antisocial behaviour problem".

This is affirmed by another contributor, when stating that it "gives an excuse to anyone on what is now a private cul de sac to be there, where currently they would be noticed".

On a personal view and experience, my partner (who lives within the Amber Valley area) formerly had an established Footpath next to her house. It was beset by youths gathering there, usually late at night, often in-drink, shouting and disturbing the peace, using and dealing drugs. It was of such "nuisance" that, for peace of mind, she used the Council Application process to have Footpath closed, and was successful. I can provide the evidence to support, if required. The result is that she can now sleep easily.

Of even more import is the "**independent**" view of "**expert**" **Keith Beswick, (Derbyshire Police, Force Designing Out Crime Officer)**, expressed on 21st June 2016 when stating "Had I been responding to the outline application I would have strongly resisted this provision. Such narrow links emerging into semi-private space are a known generator of nuisance problems for adjacent houses and alter the hierarchy of space and resident territoriality for what should be a private cul-de-sac".

It is significant that the wording "**strongly resisted**" is used, illustrating actual depth of challenge.

Some five years later, **Keith Beswick's** further offering, dated 21st May 2021, advises "My view hasn't changed since the reserved matters application and is set

out in my consultation response at that time.....To summarise, in my view the footpath proposed should have been resisted from the outset as it doesn't accord with either general design guidance, or my own experiences regarding meeting the balances between convenient and problem free pedestrian movement routes".

2) Another common view by the supporters is that there is no "**need**" for such a Footpath.

I have attached, by way of Appendix A, a copy of the site plan to illustrate the points advanced below, evidencing why a "**need**" has not been established:

a) "**The footpath link is not logical because there is no need for a link from Birkinstyle Lane into the site or vice versa (such a need might be if there was a school or shop near the end of the footpath link for example).....It is therefore considered that the footpath condition is unnecessary and fails that 'test' for a condition**", as per the submission of **Charlotte Stainton**, Chartered Planning Consultant, on 24th February 2021.

Appendix A shows most local shop is the Post Office on Chesterfield Road, some 300 metres or so distance, in the direction away from Stonebroom. Pedestrian passage to the Post Office would not involve accessing the proposed Footpath.

b) Supporters living on the Northfield development, a small residential cul-de-sac, have

expressed the view that "there is already sufficient "on-foot" access" to/from Northfield via the entrance/exit point that meets Town End.

As each of the residents own a car, and there are no facilities on Birkinstyle Lane close to Footpath entry/exit point, an alternative travel route is not needed.

c) My partner visited the occupants of 15 dwellings on School Close (which runs opposite Northfield; see Appendix A) on the afternoon of Friday 9th July 2021 and spoke with each of them re their on "foot" use of the current route from School Close, progressing on to Town End and then turning right onto Birkinstyle Lane towards Stonebroom (and reverse).

The majority were elderly; several had trouble in walking, some of whom used the assistance of zimmerframes or sticks; none had travelled on foot from their home in the direction of Stonebroom via Town End and Birkinstyle Lane, in years. Given these circumstances, provision of a footpath as an alternative travel route for the residents of School Close is, similarly, not needed.

d) The Footpath is not a potential "short-cut"/time-saver to non-Northfield residents.

If the Footpath went ahead as per the original application, in view of the actual configuration of the Northfield development, it would be longer in length to walk through the Footpath and emerge at the point where Northfield entrance meets Town End; than using the existing pavements on Birkinstyle Lane and Town End.

This is demonstrated by Appendix B, where it can be seen that the proposed "Footpath" route, documented by way of "red" line, is longer in distance than that currently available and used, which is represented by way of "blue" line.

3) Others have expressed concerns re "privacy".

This is particularly pertinent to Plot 3 (now known as number 14). **Charlotte Stainton**, Chartered Planning Consultant, in her submission dated 24th February stipulated that, "In the position approved, at its southern end the footpath would pass immediately in front of the house at plot 3. The footpath would cross the grass at the front of the house and to the left of the brick pillar..... the position of the footpath, within a few metres of the lounge window, is likely to have a significant impact on the privacy and amenity of plot 3 and their front garden".

Further, in respect of all properties on Northfield, it gives an excuse to anyone on what is now a private cul-de-sac to be there, when currently there is no reason.

### **Section B: Reasons presented for Objecting to removal of condition 28 (Footpath link)**

The Objections are detailed below in "black" type. My response to each of these Objections is detailed in "red" type.

1) There is a view that you just shouldn't change something now which was previously agreed in the planning application, to the order of "it would be unjust to allow the removal of condition 28 (footpath Link) of the planning application 12/00718/OL when as previously documented this was included in the original application for the development to gain planning permission, I am sure we would all like to be able to change circumstances after the event but unfortunately life isn't like that.....The residents would have been fully aware of the proposed footpath's location as it would have been clearly shown on the site plan this obviously didn't cause them any concern when they agreed to purchase their respective properties so feel that the goalposts should not now be moved in this respect".

This view is endorsed by another contributor, who states "Although a footpath across the front garden of No 3 is not ideal the developer was well aware of condition 28 that was agreed regarding this footpath in the 2012 application decision".

Others cite "it goes against part of NEDDC s original planning application for this new development"; and "planning approvals should not be eroded by the retrospective removal of important elements".

I would counter that Original application was made several years go. The development is now fully established and therefore the Developer has a right to submit an Application to remove a particular condition, such as the Footpath Link if he so wishes, in the light of the circumstances that persist today.

Indeed the planning process gives him that right, which should not be denied just for the reasoning that "it was in the original application to secure planning permission" and you can't just change things afterwards.

2) Two contributors voice concerns "Local residents especially the pensioners of School Close are very upset at losing a path that has been used for a hundred years that we know about"; and "The footpath is very well used and is an important link for the elderly residents of nearby School Close".

There is a fundamental misconception re the actual Footpath under consideration. As the Footpath is not even "in-situ" it cannot have "been used for a hundred years"; and neither can it be "very well used" if it does not yet exist.

It would appear that the contributors are confusing this Footpath with a permissive "Right Of Way" over other land in the locality, and **NOT** the current Application under review within Northfield.

In any event, both contributions mention the views of the residents of School Close, though none of them have submitted Objections via the District Council website, nor is there other "substantive" evidence provided. When my partner visited each of the households in School Close on the afternoon of 9th July 2021, to discuss the Footpath on Northfield, no such concerns were voiced (Section A 2) c) refers).

3) There is concern about potential building on the land if the Application to remove condition 28 succeeds, in view of contributions "the developer will build additional properties

in the open space" ; and "what assurances would be given that sometime in the future planning permission wouldn't be applied for to build further properties on this spare land" ; and "This piece of land has been levelled and fenced off so it's clear to see if the path gets removed they will build immediately, this was again never part of the plan".

Potential building to the "open space" is immaterial as an argument since the landowner would be able to submit a planning application to develop that land irrespective of whether the Application to remove condition 28 is successful. All that it means is that the land available to be developed would be smaller if a Footpath was "in-situ". Notwithstanding this, the Council would have the opportunity not to approve such planning application on the "open space" if, at any time, one was submitted.

4) An additional concern from a contributor is that should there be development on the "open space" this could "possibly contribute to an increase in vehicular traffic on our already congested roads".

Even if a planning application was ever sought on the "open space", the size of the piece of land is only sufficient to accommodate one dwelling. On an average of a household owning 2 cars, such addition would not create a problem for Shirland, given that traffic in the locality is light.

5) One contributor argues on safety grounds that use of the footpath would "alleviate the uplift in foot traffic past houses on what can only be described as the narrowest and most dangerous pavement heading from Town End in the Stonebroom direction.....consider the extra footfall that has been created on the narrow stretch of the pavement and the potential danger presented".

I am not appreciative as to why there can have been an uplift in foot traffic as, from my personal observations, the foot passage from Town End in the direction of Stonebroom is very light, given that there are no local facilities to walk to in that direction; and should someone wish to catch a bus, it would be far quicker to alight on Goose Green, than walk to the nearest bus stop on Birkinstyle Lane, some 200 yards away (see Appendix A).

As to the "narrow stretch of the pavement and the potential danger presented", pedestrians benefit from the security of pavements at "both sides" of the road on both Birkinstyle Lane and also on Town End to the point that it meets Northfield, thereby providing pedestrians a choice on which pavement to walk. However, such security could not be offered to pedestrians within Northfield as there are no pavements whatsoever at the front of properties now known as 10, 12 and 14, merely driveways (and hence an increased risk would be posed to such pedestrians); and it is past these properties that the footpath would directly emerge.

As a member of the Shirland community, I have much more concern that in turning left when exiting Northfield currently (i.e. away from Birkinstyle Lane), that Town End only has one pavement, which has existed for many years and, hence, considered acceptable, rather than concern about the existing pavements heading from Town End in the Stonebroom direction (and reverse), where there is already "double" provision.

6) One contributor has indicated that the Developer should make a "commensurate increase in...financial contribution" if the Application succeeds given that "They will save a considerable amount of money if the condition to build the footpath is removed"

I understand that section 106 contribution by the Developer is to be considered within the Planning hearing arranged.

7) One contributor has indicated that approval of the Application would be "setting a precedent for All developers to do what they like with our footpaths".

A decision to approve the Application would not, in itself, set a precedent for ALL developers to do what they like with footpaths. Each application is, and should be, judged on it's own merits. Some footpaths made add value where there are discernible positive reasons. However, in this instance, I contend the Footpath fails that test.

8) One contributor indicated that "the footpath will also be an asset for the wider community of Shirland".

As a resident of Shirland, I would consider that, say, a Village Hall would be deemed an "asset" for the wider community. Given that no need for a Footpath link from Birkinstyle Lane into the site or vice versa has been demonstrated, and would be longer to traverse than existing provision, there is doubt that it could be classed as an "amenity for the wider community of Shirland".

9) One contributor commented that "The police report that Charlotte Stainton is relying on as evidence is dated 21st June 2016, well before the landscaping and driveways were put in".

This point has been addressed by Keith Beswick, current Derbyshire Constabulary Crime Prevention Design Advisor, in his report of 21st May 2021 i.e. well after the landscaping and driveways were put in, and therefore in satisfaction of the contributor's concern. See Section A) 1) re contents of Keith Beswick's reports.

10) One contributor objected to the over-riding concern of the residents of Northfield that a Footpath "could promote anti-social behaviour and encourage an undesirable element to gain access to the development"; citing that the argument "doesn't hold credibility as the access from Town End would equally offer the same argument"

I would, once again, defer to the comments of Keith Beswick, made on 21st June 2016 and 21st May 2021, given that he is a Professional expert in the field and has more experience of the issues relating to Footpaths than I have.

Additionally, within Section A) 1) I have recounted the negative experiences of my partner in living next to an established Footpath and the fact that she can now sleep easily, having successfully campaigned for its closure.

Footpaths are narrow and have boundaries which are typically 6 foot high and give a "cloak" to hide any nefarious activities which is not available in the "open", such as that "open access" within Northfield, as accessed from Town End.

**Summation:**

Currently, Northfield is a private cul-de-sac offering its residents a peaceful community, with no issues of crime.

It already has a sufficient "foot" entry and exit point, where it meets Town End.

There is "no need" for a Footpath link from Birkinstyle Lane into the site or vice versa and it can therefore be considered unnecessary; thereby failing the 'test' for a "condition", as per the submission of **Charlotte Stainton**.

**Keith Beswick**, of Derbyshire Police, has commented that "Narrow links emerging into semi-private space are a known generator of nuisance problems for adjacent houses". Footpaths are such "narrow links"

Given the issues arising from many Footpaths elsewhere, why take such risk when none persists at present and there is no demonstrable reason to install the proposed Footpath?

**For the reasons documented in this Memorandum, I support the Application to remove condition 28 Footpath link.**

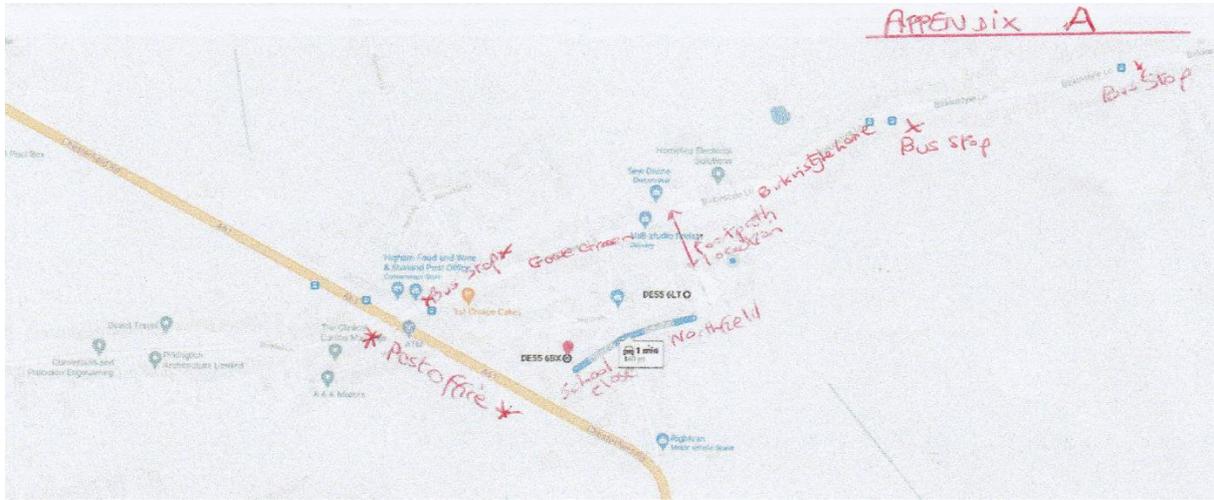
.....

Timothy Slack

Of No. 15 Northfield

Shirland  
DE55 6LT

**Appendix A**



**Appendix B**



**OFFICER COMMENTS:**

The points raised above raise no new material considerations and are covered in the report to members.

**PARISH:** Wingerworth

**APPLICATION:** 21/00344/FLH

**CASE OFFICER:** Philipp Tschavoll-Selenko

**SOURCE OF COMMENTS:** Email from objector (neighbour)

**DATE RECEIVED:** 12 June 2021

**SUMMARY:**

I would like to acknowledge the modified plans are a slight improvement. However the proposed property will still have an overbearing impact and will tower 6.8 m in height above the ground level of my property.

The impact on Privacy is still a major concern. My rear garden is not currently overlooked by any other properties but will be significantly by this development. The nearest bedroom window and stairs window are of major concern. They will have a direct view of 80 percent of my garden. This will produce a significant loss of privacy and amenity in accordance with criterion c) of PolicyLC5 of the PDLP.

This could be addressed easily as discussed with Planning manager Adrian Kirkham on the 25<sup>th</sup> June when he conducted a site visit at my property and viewed my concerns. The nearest bedroom window and staircase window could easily be obscured. The bedroom of concern will also have a large window looking out too the front aspect making the room double aspect. The bedroom will also benefit from borrowed light from its proposed en-suite window.

This simple change will have minimal impact on the bedroom and staircase area but will ensure that my privacy and amenity is not affected significantly.

**OFFICER COMMENTS:**

There will be some overlooking from the new bedroom window over the garage and at an angle to the garden but it is Officer's view that obscure glazing is not warranted due to the angle and the garage obscuring much of the neighbour's garden.

**PARISH:** Clay Cross

**APPLICATION:** N/A Tree Preservation Order 276 – Land off Clay lane, Clay Cross

**CASE OFFICER:** Adrian Kirkham

**SOURCE OF COMMENTS:** Email from Mr Jeffers (supporter) – resident of Grasmere Avenue. Mr Jeffers is unable to attend Committee due to work commitments.

**DATE RECEIVED:** 15 July 2021

**SUMMARY:**

I would like to provide some valid reasons as to why this TPO should be accepted and enforced.

- **Aesthetics for the local area**

A small development south of our estate which was complete a number of years ago was placed very close to some beautiful large trees which we all loved to look at from our garden and back house windows. The other week these very large old trees were completely felled. I can only imagine this was because the new bungalow owners didn't like the blocking of the sun in their garden! The area now looks bare. Not a pretty site. My kids used to call it the large Broccoli tree, now its gone forever. The council and developers don't seem to think it's an issue allowing plans to build houses near beautiful trees, not even thinking some home owner will then chose to fell them for some selfish reason years down the line. Thus changing the aesthetics of the estates nearby for everyone. This tree in question was a haven for birds and other wildlife too.

The trees north of the estate which surround the new development are a lovely sight to see from our estate, it would be a travesty if they were felled like all the others when the developers moved in to clear the land. They provide a positive natural backdrop for the estate surroundings.

- **Local Wildlife**

Trees are essential for such species as birds, bats, insects, badgers and hedgehogs etc to flourish around us. If there were no Trees in the area then this means far less wildlife amongst the trees and the brook. As I mentioned above most the trees have already been felled from this "Wild" area which in itself was a tragedy. Lets not lose the final ones which help provide life, cover and support to local wildlife.

- **Noise pollution and separation**

The existing tree lines will assist in providing a natural divide between the estates so that less noise and other pollutants are carried through. Due to their size they also provide noise cover from the very busy (and getting busier) A61 just up the hill.

- **Floods**

These trees are also a natural defence against flooding caused by converting the "Wild" land to new housing development full of tarmac and houses, basically less natural drainage. These trees will help soak up excess water from the ground which will be produced by the new development.

I can guarantee if a TPO is not enforced on these remaining trees that either the developers will fell them sooner rather than later or in the not too distant future new home owners will do the same. It will be a very sad day for local wildlife and residents if that happens. Our estate has been here since the 60's and lately it seems like all the building work is spoiling our natural surroundings. We already have to live with this new development which was opposed by many people in the local area. I would like to think the council understands my concerns and that the right decision is made.