



**North East  
Derbyshire**  
District Council

Our Ref:

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Date: Monday, 12 October 2020

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 20 October 2020 at 2.00 pm by Conference Call**. Access credentials to the meeting will be sent to you separately. The public parts of the meeting will be streamed from the Council's website.

#### Virtual Attendance and Hybrid Meetings

I have provided the Leader and Deputy Leader with advice on the holding of "hybrid" meetings outlining the risks including to employees dealing with the Chamber and to Members. Hybrid meetings are those where some attendance is in person in the Council Chamber and some is virtual.

I would encourage you all to attend virtually.

Accordingly if you attend in person you will be deemed to have accepted the following disclaimer as applying.

#### Risk Assessment Disclaimer

When attending this meeting in person, I confirm that I have read and understood the contents of each of the following risk assessments and agree to act in line with its content.

- ☐ RA – Return to Work Mill Lane Covid 19 V9
- ☐ Mill Lane Coronavirus Control Measures V4

Both documents have been emailed to Members and are available on the Modern.Gov App library.

The same advice is given to officers who are also encouraged to participate in the meeting remotely.

Yours sincerely

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

Joint Head of Corporate Governance and Monitoring Officer

### **Members of the Committee**

Conservative Group	Labour Group
Councillor Diana Ruff Councillor William Armitage Councillor Peter Elliott Councillor Mark Foster Councillor Carol Huckerby Councillor Maureen Potts Councillor Alan Powell	Councillor Jayne Barry Councillor Tracy Reader Councillor Jacqueline Ridgway Councillor Kathy Rouse
Liberal Democrat Group	Independent Group
Councillor Ross Shipman	Councillor Andrew Cooper

**Any substitutions required are to be made to Alan Maher, Senior Governance Officer by 4.00 pm on the day before the Committee meeting.**

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

# **A G E N D A**

## **1 Apologies for Absence and Substitutions**

To receive any apologies for absence and notices of substitutions from Members.

## **2 Declarations of Interest**

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

## **3 Minutes of Last Meetings (Pages 5 - 19)**

To approve as a correct record and the Chair to sign the Minutes of the special meeting of Planning Committee held on Tuesday 22 September 2020 at **10am**.

To approve as a correct record and the Chair to sign the Minutes of the scheduled meeting of Planning Committee held on Tuesday 22 September 2020 at **2pm**

## **4 Reports of the Planning Manager - Development Management**

- (a) NED/20/00648/FL - Hill Top Stables, Quarry Hill, Troway, Marsh Lane, Eckington (Pages 20 - 32)
- (b) NED/20/00570/FL - Brockhurst Mill, Mill Lane, Brockhurst, Ashover (Pages 33 - 46)
- (c) NED/20/00446/FL - 1 Overton Lodge, Jetting Street, Milltown, Ashover (Pages 47 - 56)
- (d) Late Representations - Summary Update Report  
To Follow

## **5 Planning Appeals Lodged and Determined (Pages 57 - 59)**

## **6 Matters of Urgency**

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.

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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**

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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**

### **MINUTES OF MEETING HELD ON TUESDAY, 22 SEPTEMBER 2020 AT 10 AM**

#### **Present:**

Councillor Diana Ruff (Chair) (in the Chair)

Councillor William Armitage  
Councillor Mark Foster  
Councillor Alan Powell  
Councillor Kathy Rouse  
Councillor Heather Liggett  
Councillor Maggie Jones

Councillor Andrew Cooper  
Councillor Carol Huckerby  
Councillor Tracy Reader  
Councillor Stephen Clough  
Councillor Lee Hartshorne  
Councillor Pam Windley

#### **Also Present:**

R Purcell	Assistant Director - Planning
E Cartwright	Senior Planning Officer
J Fieldsend	Legal Team Manager (non contentious)
N Calver	Governance Manager
A Maher	Senior Governance Officer
M E Derbyshire	Members ICT & Training Officer
A Bryan	PA to Cabinet and Civic Officer

#### **PLA/ Apologies for Absence and Substitutions** **28/2**

**0-21** Apologies were received from Councillor Jayne Barry, who was substituted by Councillor Lee Hartshorne, Councillor Peter Elliot, who was substituted by Councillor Heather Liggett, Councillor Mo Potts who was substituted by Councillor Steve Clough. Councillor Jacqueline Ridgway, who was substituted by Councillor Margaret Jones and Councillor Ross Shipman, who was substituted by Councillor Pam Windley.

#### **PLA/ Declarations of Interest** **29/2**

**0-21** No declarations of interest were received.

#### **PLA/ NED/19/01202/FL - Land to rear of Hamhill Close and 14 to 19 John Street, Hepthorne Lane** **30/2**

**0-21a** The report to Committee explained that an application had been received for the construction of 4 detached four-bedroom dwellings with garages on land to the rear of Hamhill Close and 14 To 19 John Street, accessed from Station Road Hepthorne Lane, North Wingfield, for Mr Featherstone (D.F. Blasting Contractors, C/O Mitchell Proctor). The proposed development would be a departure from the Development Plan and affect a Public Right of Way.

The report explained that the application had been referred to Planning Committee by the Local Ward Members, Councillor Nigel Barker and Councillor Jayne Barry, who had raised concerns about it.

Two Parish Councillors spoke against the application. One of these was Councillor Nigel Barker, in his capacity as a North Wingfield Parish Councillor.

The Agent spoke in support of the application.

No supporters spoke in favour of the application.

Committee considered the application. It took into account the relevant Planning issues in reaching its determination on the application. These included the sustainability of the development, its possible impact on the character of the area, the impact on neighbouring properties and the effect on the natural environment. It also took into account highways issues and how the proposed development might impact on drainage conditions.

Members discussed the application. In particular, they discussed the maintenance arrangements for the road to the proposed development. Committee noted that the road would not be 'adopted' and as such would not be maintained by Derbyshire County Council as the Highways Authority. They considered the role which the proposed Management Company for the site should play in maintaining it.

Members concluded that appropriate arrangements ought to be put in place to ensure that the road was kept in an ongoing good state of repair and asked that these arrangements ought to be made a condition as for approval for the application. They also asked for conditions about the pre-installation of the substructure of the road, prior to construction and a requirement for additional landscaping to be imposed.

RESOLVED -

- (a) That the application be approved, in line with officer recommendations,
  - (b) That a condition be imposed requiring details of the future management and maintenance of the road to be submitted;
  - (c) That conditions requiring root protection for trees on and surrounding the site, additional landscaping the installation of the substructure of the road be in place before construction of the properties commences.
  - (d) That the detailed conditions be finalised by the Assistant Director of Planning, in consultation with the Chair of the Committee.
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- 1. The development hereby permitted shall be started within 3 years from the date of this permission.
  - 2. The development hereby approved shall be carried out in accordance with the submitted plans drawing numbers 19-770-01,02 and 03 dated September 2019 unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice.

3. Notwithstanding the submitted details, before any above ground works commence, a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the occupation of the dwellings is hereby approved.
4. Notwithstanding any submitted details before any above ground works commence, specifications or samples of the walling and roofing materials to be used, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details. Unless otherwise agreed in writing by the Local Planning Authority.
5. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of both shallow and areas of opencast coal mining legacy. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.
6. Where the findings of the intrusive site investigations (required by condition 5 above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation and mitigation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.
7. Before any other operations are commenced, detailed designs shall be submitted to the Local Planning Authority for written approval indicating the repair, improvement and resurfacing of the vehicular access route between Station Road and the application site. The dwellings hereby permitted shall not be occupied until these works have been completed in accordance with the approved details.
8. Before any other operations are commenced, excluding Condition No 7 above, space shall be provided within the site for storage of plant and materials, construction site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.
9. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

10. Prior to the first occupation of a dwelling on the site the junction of the access with Station Road shall be provided with visibility sightlines extending from a point 2.4m back from the nearside carriageway edge measured from the centreline of the access, for a distance of 47m in each direction measured along the nearside carriageway edge, or in accordance with such other scheme as may subsequently be submitted to an approved by the Local Planning Authority. The area in advance of the visibility sightlines shall be retained permanently clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
11. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No DL-1145-01-HW-001 for the parking and manoeuvring of residents', service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
12. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.
13. The development shall be carried out in strict accordance with the Ecological Mitigation and Compensation Management Plan including the species Working Method Statements, with any amendments agreed in writing.
14. A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
  - a) Description and location of features to be created, planted, enhanced and managed.
  - b) Aims and objectives of management.
  - d) Appropriate management methods and practices to achieve aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
  - g) Details of the body or organization responsible for implementation of the plan.
  - h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.
  - i) Locations of bat boxes, bird boxes, hedgehog holes and habitat piles (include specifications/installation guidance/numbers).



The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

15. The site shall be developed with separate systems of drainage for foul and surface water on and off site. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include , but not be exclusive to:
  - i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
  - ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker. (To ensure that no surface water discharges take place until proper provision has been made for its disposal).
16. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. The proposed drainage strategy
  - b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.
17. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.
18. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
19. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

**PLA/ NED/20/00500/FL - 11 Wellington Park, Shirland**

**31/2**

**0-21**

The report to Committee explained that an application had been received for the change of use of a double garage to a beauty salon at 11, Wellington Park, Shirland for Mr Glen Gent.

The report explained that the application had been referred to the Committee for determination by a local Ward Councillor, Heather Liggett, who had raised concerns about it.

A Parish Councillor spoke against the application.

Eight objectors spoke against the application.

The partner of the Applicant spoke in support of the application

No supporters spoke in favour of the application.

Planning Committee was referred to the recent late comments report, which had been issued on the afternoon prior to the meeting.

Committee considered the application. As part of this, it took into account the relevant Planning issues in reaching its determination on the application. These included the impact on the characteristic and appearance of the surrounding area, the implications on the privacy and amenity considerations for neighbouring residents and Highways Safety.

Members discussed the application. They discussed the potential benefits for the applicant and the proposed working arrangements that would be put in place. They considered the likely volume of customers using the proposed facility, both during the period of the Coronavirus (Covid-19) outbreak and afterwards. Members also discussed concerns that the change of use might create additional traffic and parking problems and the impact that these would have on the local community.

**RESOLVED -**

(a) That the application be refused contrary to officer recommendations.

(b) That the reasons for refusal focus on the adverse impact on the residential amenity as a result of the parking problems, increased traffic, disturbance caused and reduction in the privacy of neighbouring properties.

**PLA/ NED/20/00435/FLH - 13 Westthorpe Road, Killamarsh**

**32/2**

**0-21**

The report to Committee explained that an application had been received for the erection of a detached garage in the rear garden of 13 Westthorpe Road, Killamarsh S21 1ET for Mr R Ley.

The report explained that a ward Member had requested that the application be determined by the Planning Committee, as they had raised concerns about it.

A Ward Councillor, Councillor Mo Potts, spoke against the application

One local resident spoke in objection to the application

No one spoke in support of the application.

Committee considered the application. As part of this, it took into account the relevant planning issues in reaching its determination on the application. In this context, it considered the impact of the proposed development on the character of the area, privacy and amenity considerations, and whether the building would have a detrimental impact on neighbouring occupiers and uses. Committee also considered the highway safety implications of the proposals.

Member discussed the application. In particular, they considered, the size of the proposed building and its appearance. They also discussed whether it would be an appropriate development in a residential area and the possible impact on neighbouring properties, including an increased volume of traffic.

**RESOLVED -**

- (a) That the application be refused, contrary to officer recommendations;
- (b) That the reasons for refusal focus on two grounds of the adverse impact on residential amenity of neighbouring properties as a result of the amount of cars and activity that could be generated , and that the size of the building in this areas was detrimental to the residential character of the area.

**PLA/ Matters of Urgency**

**33/2**

**0-21**

There were no Matters of Urgency for the Committee to consider.

## **PLANNING COMMITTEE**

### **MINUTES OF MEETING HELD ON TUESDAY, 22 SEPTEMBER 2020**

#### **Present:**

Councillor Diana Ruff (Chair) (in the Chair)

Councillor William Armitage  
Councillor Mark Foster  
Councillor Alan Powell  
Councillor Kathy Rouse  
Councillor Heather Liggett  
Councillor Maggie Jones

Councillor Andrew Cooper  
Councillor Carol Huckerby  
Councillor Tracy Reader  
Councillor Roger Hall  
Councillor Lee Hartshorne  
Councillor Pam Windley

#### **Also Present:**

R Purcell	Assistant Director - Planning
E Cartwright	Senior Planning Officer
A Lockett	Planning Officer
J Fieldsend	Legal Team Manager (non contentious)
N Calver	Governance Manager
A Maher	Senior Governance Officer
D Stanton	Governance Officer
M E Derbyshire	Members ICT & Training Officer

#### **PLA/ Apologies for Absence and Substitutions**

**34/2**

**0-21** Apologies were received from Councillor Jayne Barry, who was substituted by Councillor Lee Hartshorne, Councillor Peter Elliot who was substituted by Councillor Heather Liggett, Councillor Mo Potts who was substituted by Councillor Roger Hall, Councillor Jacqueline Ridgway who was substituted by Councillor Margaret Jones and Councillor Ross Shipman, who was substituted by Councillor Pam Windley.

#### **PLA/ Declarations of Interest**

**35/2**

**0-21** No Declarations of Interest were received.

#### **PLA/ Minutes of Last Meeting**

**36/2**

**0-21** The minutes of the last meeting, held on Tuesday 25 August 2020 were agreed as a true record.

#### **PLA/ NED/20/00349/FL - Land at the Northern junction of Hillhouses Lane and New Road, Wingerworth**

**0-**

**21a** The report to Committee explained that an outline application had been submitted, with all matters reserved except for access, layout and scale, for a single storey log cabin, within the existing equestrian facility, for holiday let accommodation at land at the northern junction of Hillhouses Lane and New

Road, Wingerworth, for Mr John Cocker.

The application had been referred to the Committee by the local ward Member, Councillor Pat Antcliff who had raised concerns about it.

No objectors spoke against the application

The Applicant spoke in support of the application

The Agent for the application spoke in favour of the application.

No supporters spoke in favour of the application.

Committee considered the application. It took into account the relevant Planning issues in reaching its determination on the application. In particular, it considered the principle of development and the location of the proposed site outside of any defined settlement limit, falling within the countryside. It also examined the landscape considerations, as well as the privacy and amenity considerations for neighbouring properties. In addition, Committee took into account the highway safety considerations.

Members discussed the application. In particular, they heard about the contribution that the log cabin could play in providing holiday accommodation in Wingerworth, how it would be accessed from the highway and its relationship to the equestrian facility and how this could be controlled through the attachment of an appropriate condition to approval.

#### RESOLVED -

- (a) That the application be approved in line with officer recommendations.
- (b) That the final conditions be drawn up by the Assistant Director, Planning, in consultation with the Chair of the Committee.
- 1. Applications for approval of reserved matters are required before development can start and shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be started within two years from the date of approval of the last of the reserved matters to be approved.
- 2. Approval of the details of the appearance of the building and the landscaping of the site shall be obtained from the Local Planning Authority in writing before any development is started.
- 3. The site shall be developed with one log cabin only
- 4. The scheme submitted as part of the reserved matters shall include details of the existing grounds levels, proposed finished floor levels of the log cabin and the proposed finished ground levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

5. Before development starts, a scheme for the provision of foul and surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is brought into use and shall be retained as such thereafter.
6. Before developments, a plan to show the positions, design, materials, height and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be complete before the first occupation of the dwelling and shall be retained as approved thereafter.
7. Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.
8. The proposed holiday let shall not be taken into use until space has been provided within the site in accordance with the application drawing for 3 No. cars to park (spaces of minimum dimensions 2.4m x 5.5m clear of any shared/manoeuvring area) and for vehicles to turn so that they may enter and leave the site in a forward gear.
9. There shall be no gates or other barriers forward of that already existing on the access and any gates shall open inwards only, unless otherwise agreed, in writing, by the Local Planning Authority.
10. Before the commencement of the development hereby approved:
  - a) A Phase I land contamination assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
  - b) The land contamination assessment shall include a desk-study with details of the history of the site use including:
    - the likely presence of potentially hazardous materials and substances,
    - their likely nature, extent and scale,
    - whether or not they originated from the site,
    - a conceptual model of pollutant-receptor linkages,
    - an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
    - details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater

sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

11. Before the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

12. The dwelling hereby approved shall not be occupied until:

- a) The approved remediation works required by 11 above have been carried out in full in compliance with the approved methodology and best practice.
  - b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 10b to 11 above and satisfy 12a above.
  - c) Upon completion of the remediation works required by 11 and 12a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.
13. Notwithstanding the provisions of Part C, Class C3 "Dwelling House" to the Schedule of the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the premises shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior written permission of the Local Planning Authority.

The property shall not be occupied by any persons for a total period exceeding 28 days in any calendar year.

The owner shall maintain a register of occupiers for each calendar year including names, addresses and length of stay, and a copy of the register shall be supplied to the Local Planning Authority by 31<sup>st</sup> January each year

**PLA/ 37/2 0-21     NED/20/00506/TPO - Land to the North and West of The Poplars, Ankerbold Road, Old Tupton**

The report to Committee explained that an application had been submitted for the removal of 41 poplar trees, covered by Tree Preservation Order (TPO) Number 6 in various stages of decline, with previous failures, at land to the north and west of 'The Poplars', Ankerbold Road, Old Tupton for Mr Edward Chandler – TEP Ltd.

The application had been referred to Committee by the Ward Member Councillor David Hancock, who had raised concerns about it.

Two Ward Members spoke in opposition to the application, Councillor David Hancock and Councillor Ross Shipman

One objector spoke against the application.

No supporters spoke in favour of the application.

Committee considered the application. In this context, it took into account the relevant Planning issues in reaching its determination on the application. These included the potential impact on the public amenity value of the group of trees protected by the Tree Preservation Order, the impact on the privacy of neighbouring properties if the trees were removed and the impact on biodiversity in the area.

Members discussed the application. In particular, they discussed concerns about the potential impact on wildlife habitats if the trees were removed, the proposed location and size of the replacement trees and whether further information of the condition of the trees covered by Tree Preservation Order 6 would be required before the Committee could reach a determination on the application.

**RESOLVED -**

That consideration of the application be deferred, so that a further independent assessment of the health and viability of the trees can take place, with the findings considered by the Committee in its determination of the application.

**PLA/ 38/2 0-21     NED/20/00166/OL - Land between Overton Lodge and Brookside Cottage, Fallgate, Milltown, Ashover**

The report to Committee explained that an outline application had been submitted, with all matters reserved, for the erection of one detached dwelling (affecting the setting of a listed building) at land between Overton Lodge and



Brookside Cottage, Fallgate, Milltown, for Stenfold Resources Ltd.

The application had been referred to the Committee by the Ward Member, Councillor William Armitage, who had raised concerns.

One objector spoke against the application.

The Agent spoke in support of the application

No supporters spoke in favour of the application.

Committee considered the application. It took into account the relevant Planning issues in reaching its determination on the application. In particular it considered its location outside any defined settlement development limited and within a designated special landscape area, the landscape implications for the immediate area, the impact on the setting of a listed building and privacy and amenity considerations for neighbouring residents. It also took into account highway safety considerations, as well as ecology and biodiversity considerations.

Members discussed the application. As part of this, they heard the officer concerns that the dwelling would constitute unsustainable development, which would represent an obtrusive encroachment into the countryside and that this would have a detrimental impact upon the character of the special landscape area. They also heard about other developments which had received planning permission in the surrounding area.

#### **RESOLVED -**

That in line with officer recommendations planning permission be refused as an unsustainable development in the countryside for the reasons set out in the report.

The application proposes the construction of a single dwelling in a countryside location away from any defined Settlement Development Limit. No special circumstances have been submitted which would justify the construction of a market dwelling in what is considered to be an unsustainable location in the countryside. It is considered that any proposed dwelling would detract from the character and appearance of the Special Landscape Area and would appear as an incongruous addition in the street scene. Therefore, to grant permission would be contrary to Local Plan Policies GS1, NE1 and NE2 of the North East Derbyshire Local Plan, Policies AP2 and AP13 of the Ashover Neighbourhood Plan and the National Planning Policy Framework when read as a whole.

#### **PLA/ Appeals Lodged and Determined**

**39/2**

**0-21**

The report to Committee explained that a number of appeals had been lodged.

These were:-

Mr and Mrs Simpson- Demolition of existing garages / storage building and rebuilding to provide a residential bungalow to be occupied by family members at Acorn House, Far Lane, Barlow (19/00564/FL)

Mr P Leicester - Application for determination of a high hedges complaint relating to conifers at 30 Knighton Street, Hepthorne Lane, North Wingfield (19/00789/HHC)

Mr J Cash - Construction of detached two storey two bed dwelling (revised scheme of 18/00251/OL) at The Angel Inn, 127 Rotherham Road, Killamarsh (20/00182/FL)

The following appeal had been dismissed:-

Mr Bowler – Conversion of garage with first floor extension over at Bonne Vienne, Staveley Road, Duckmanton (20/00073/FLH)

Mr and Mrs Corker– Application for American barn style stables and manege (revised scheme of 19/00325/FL) at Cowley Hall Farm, Cowley Lane, Holmesfield (19/01197/FL)

Mr Tyrone Henighan– Construction of ground and first floor extension to side and rear to provide new dwelling at 44 Church Lane, Calow (19/00878/FL)

Mr Clay – Approval of Reserved Matters (access, layout, scale, appearance and landscaping) for 3 dwellings pursuant to outline planning permission 15/01225/OL (Affecting a public right of way) at The Bungalow, Park Farm, Park Avenue, Holmesfield (19/00451/RM)

An appeal for costs was partially allowed.

No Appeals have been allowed or withdrawn

**PLA/ Planning Enforcement Plan**

**40/2**

**0-21**

Members were reminded that the Council's Planning Committee was responsible for Planning Enforcement. On that basis Members were asked to consider and endorse a 'Planning Enforcement Plan' for the Council. Committee heard about the scope and purpose of the proposed Plan and in particular, how it would make clear what the public could reasonably expect from the Planning Service, when reporting a suspected breach of planning control. The Plan would also set out a framework for monitoring performance and workloads of the Planning Enforcement service area.

Committee discussed the draft Plan. Members felt that it would give the public a better understanding of this often contentious area of the Council's work and provide to all interested parties a service standard to expect and to work to. There was a consensus that the Committee should support the Plan

**RESOLVED -**

- (1) That Planning Committee endorsed the Planning Enforcement Plan and its approval and adoption.

- (2) That the Committee supported the preparation by the Council's Communications Team of a resident accessible version of the Plan and a public communication campaign of this.
- (3) That any subsequent amendments to the Plan, required as a result of customer feedback, legislative or regulatory changes, be agreed with the Portfolio Holder with responsibility for the Planning function and Chair of Planning Committee, prior to the formal review of the Plan, in 2024.

#### REASONS FOR DECISION -

Approval and publication of the Plan would give the public a better understanding of the planning enforcement function and provide to all interested parties a service standard to expect and to work to.

#### OTHER OPTIONS CONSIDERED AND REJECTED -

The option of not preparing a Planning Enforcement Plan for the District was considered but rejected. It would not help the public or the many others who often have just periodic interest in enforcement cases to understand the context in which the system works to and thereby manage their expectations.

#### **PLA/ Matters of Urgency**

**41/2**

**0-21** There were no matters of urgency.

## PLANNING COMMITTEE – 20 October 2020

**REFERENCE NUMBER:** 20/00648      Application Expiry Date: 10 September 2020  
**Application Type:** Full Planning Permission

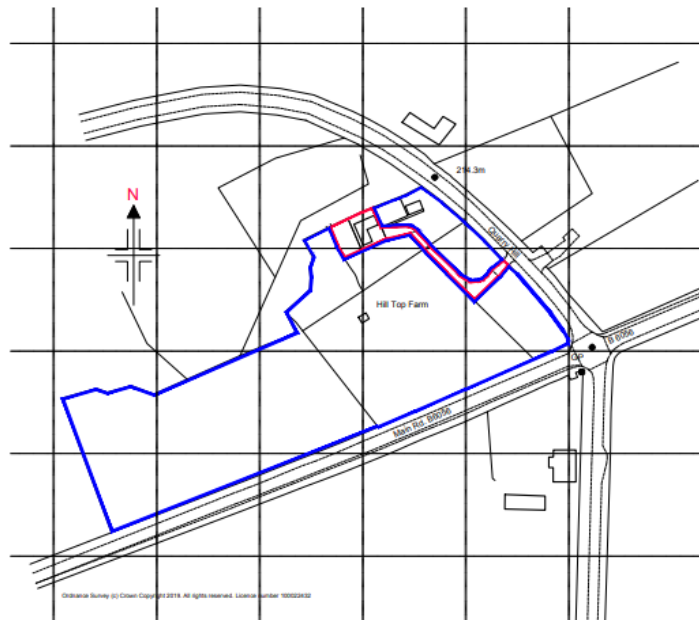
**Proposal Description:** Conversion of an existing stable building to a single dwelling  
(Revised Scheme of 19/00219/FL) (Conservation Area)  
**At:** Hill Top Stables Quarry Hill Troway Marsh Lane S21 5RU

**For:** Mrs Roper  
**Third Party Reps:** 0      **Parish:** Eckington  
   **Ward Name:** Ridgeway And Marsh Lane Ward

**Author of Report:** Denise Knipe Aspbury Planning      **Date of Report:** 01 October 2020

### MAIN RECOMMENDATION: Refuse

Location Plan



## **1.0 Reason for Report**

- 1.1 Councillor Renwick has requested that the Application is determined by the Planning Committee to give Members an opportunity to review and reconsider the proposal. The reason for the call in is provided below:
- 1.2 A previous application was refused on the grounds of not being of substantial construction and the change of use therefore being inappropriate development in the Green Belt. At the time of the Committee meeting concern was also expressed at the amount of extension and alteration to the building that was proposed. The current scheme has been significantly amended so that no extensions are proposed, and the amount of alteration has been substantially reduced. An additional structural report has also been submitted to support the proposal (available to view on the Council's website). This shows that the building is capable of conversion and that no demolition/rebuilding is required.
- 1.3 The proposal does not involve the provision of a large garden area which would affect the open character of the Green Belt but is restricted to a small area around the building.
- 1.4 The building is genuinely redundant: It was built to accommodate Mrs Roper's horses but Mrs Roper had a riding accident and no longer rides and now only keeps 2 ponies who do not require stabling accommodation, and a herd of rare breed sheep. This is not a case of speculatively building a stable block and then seeing a conversion as a way of making money from the site, but is rather a way of using a redundant building by providing Mrs Roper with a home from which to look after her sheep and ponies. It is accepted that the level of animal care is not sufficient in itself to justify a dwelling but it does add to my client's case which is in accordance with policy that allows for the conversion of buildings in the Green Belt to new uses in principle.
- 1.5 Planning policy and government guidance allow for the conversion of buildings in the Green Belt to other uses subject to a number of criteria including that the building concerned should be of a permanent and substantial construction and capable of conversion without significant alteration or extension. The current proposal complies with those criteria.
- 1.6 In determining any planning application, the decision must be made based on the details of the case against the planning policy background. When looking at this case in relation to other similar proposals it must also be noted that 2 previous applications for the conversion of a stable building of the same form of construction to this application building at The Woodlands approximately 700 metres to the north west of this application site were approved in 2015 and 2018. The considerations in that case

were the same as with the current proposal yet those were considered to be acceptable.

- 1.7 The Planning Committee is required to determine the application.

## **2.0 Proposal and Background**

- 2.1 The application relates to a site that is in mixed use for agriculture and equestrian activities located to the north west of the junction of Main Road and Quarry Hill, Marsh Lane. The site lies outside of any Settlement Development Limit therefore wholly within the countryside, the Green Belt and Moss Valley Conservation Area.
- 2.2 The site comprises of a stable block, an open fronted agricultural building used for storage and a further storage barn and sits within 5 acres of land. The buildings are located along the northern boundary of the field. The applicant has two ponies and a small herd of rare breed sheep which are kept on site. The stable building, subject to this proposal, is said to not be required for the keeping of the ponies and is now redundant. There are two field shelters in the field to the south.
- 2.3 A mature hedgerow forms the front boundary to the north west and north east and provides screening of the buildings from Main Road. Access to the site is from Main Road with the track leading to the collection of buildings which are separated from the fields by a post and rail fence. Hard standing areas are provided around the buildings.



Stables – subject of the application



View west



Further agricultural buildings - east



Existing access

- 2.4 Full planning permission is sought for the conversion of the timber L-shape stable building to be used as a one bedroom residential property with associated access and parking. The stable comprises of four looseboxes and small utility/tack room and originally gained planning permission in 2011 (Ref: 11/00702/FL).
- 2.5 The “L” shaped building is 10.8m long x 3,6m wide north to south and 10.8m x 3.6m east to west. The external wall comprises a timber frame construction consisting of 50x75mm vertical standards spaced at 400mm centres. The internal partition walls are also timber frame construction consisting of 50mm x 75mm standards at regular centres. The roof of the building is supported by vierendeel type trusses spaced at 1300mm centres spanning front to rear with an overhang of 1m at the front. The trusses support 50mm x100mm timber rafters covered with corrugated sheeting. The floor/foundation is a 150mm thick reinforced concrete slab. The slab extends beyond the footprint of the building to the front yard. The top of the floor slopes slightly to the front for washing/hosing down purposes.
- 2.6 The application is supported with a Structural Survey which states that the building is suitable for habitation although a number of works would have to be undertaken. These comprise the following:
- The concrete floor slab/foundation is structurally sound and acts as a raft to support the building. However, the floor will require levelling in the form of levelling screed incorporating a damp proof membrane and thermal insulation in accordance with the Architect's details.
  - The roof trusses and timber rafters may require strengthening without removal by introducing additional members as necessary.

The roof covering will be a lightweight sheeting material underdrawn with thermal insulation as necessary to comply with current building regulations. This will produce a lightweight roof structure more than capable of being supported the existing roof trusses and rafters when benefiting from the extra bracing.

- This will not affect the scale and impact of the existing building. The external walls are structurally sound but will require insulation and a damp proof membrane or similar.

- 2.7 The proposal would utilise the existing form of the building including the window and door openings. Eight additional roof lights are proposed on the side and rear elevation to give extra light into the rooms.
- 2.8 The accommodation would provide for a dining room, kitchen, bedroom, lounge, store and bathroom.
- 2.9 There is already a defined curtilage around the building, marked by a timber post and rail fence. Parking for the future occupiers is proposed to the east utilising the existing concrete apron with an amenity area/garden provided to the west, currently used as open storage.
- 2.10 The application has been resubmitted, in an attempt, to overcome the refusal of 19/00219/FL. The difference in the two proposals is that this latest submission proposes no extension(s) and no alterations to the external appearance of the building.

### **3.0 Relevant Planning History**

- 3.1 84/00887/FL | Retention of horse shelter. Status: Conditionally Approved
- 3.2 11/00702/FL | Construction of L-Shaped wooden stable block on concrete base (Conservation Area) Status: Conditionally Approved
- 3.3 13/00561/FL | Construction of three-sided wooden feed storage barn (Conservation Area) Status: Conditionally Approved
- 3.4 15/01120/CATPO | Notification of intended pruning works to six sycamore trees within the Moss Valley Conservation Area Status: No objection
- 3.5 17/00296/FL | Application for the construction of timber framed and clad open fronted agricultural building for use as sheep shelter and tractor and implement store (Conservation Area) (Amended Plans). Status: Conditionally Approved<sup>4.6</sup>
- 3.6 18/00455/TPO | Application for various tree works within woodland covered by NEDDC TPO 9 (W1). Status: Conditionally Approved



- 3.7 19/00219/FL | Conversion of existing stable building to a single dwelling (Conservation Area) (Amended Plan/Additional Information): Refused

#### **4.0 Consultation Responses**

- 4.1 **Eckington Parish Council** have provided a late representation stating that they would like to support this conversion noting that this is a reduced scheme from the original - It is limited and does not (in their opinion) contribute to urban sprawl.
- 4.2 **Derbyshire Highways Authority** have raised no comments.
- 4.3 **Yorkshire Water Authority** have not responded.
- 4.4 **Environmental Health** have not responded.
- 4.5 **NEDDC Drainage** have not responded.

#### **5.0 Representations**

- 5.1 One **Ward Councillor** (Cllr. Renwick) has commented on the application and requested that the application is determined by the planning committee (see section 1 above)
- 5.2 The application was publicised by the display of a site notice. There have been no letters of objection received from interested parties.

#### **6.0 Relevant Policy and Strategic Context**

- 6.1 The Development Plan comprises The North East Derbyshire Local Plan  
The policies applicable to the development are as follows:

- GS1 Sustainable Development
- GS2 Green Belt
- GS6 Development in the Countryside
- GS7 Change of Use and Conversions
- BE1 General Design Principles
- BE11 Development within and adjoining the Conservation Area
- NE1 Landscape Character
- T2 Highway Impact of New Development
- T9 Car Parking Provision

- 6.2 The Publication Draft Local Plan (2014-2034) (eLP) is also relevant to this application. The emerging Local Plan was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019,

the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications. It is anticipated that the Plan will be adopted in early 2021.

6.4 The emerging Local Plan is therefore at an advanced stage and should be attributed appropriate weight accordingly in decision making.

6.5 The most relevant Policies are considered to be:

SS1 Sustainable Development  
SS2 Spatial Strategy and the Distribution of Development  
SS9 Development in the Countryside  
SS10 North East Derbyshire Green Belt  
SDC1 Re-use of Building in the Green Belt and Countryside  
SDC3 Landscape Character  
SDC5 Development within Conservation Areas  
SDC12 High quality Design and Place-Making  
ID3 Sustainable Travel

6.6 National Planning Policy Framework

6.7 The revised National Planning Policy Framework was published on 19<sup>th</sup> February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012 and 2018.

6.8 For the avoidance of any doubt, the application site is not affected by a Neighbourhood Plan.

#### Other Material Considerations

6.9 The statutory requirement of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("P(LBCA)A 1990") requires that special attention to the desirability of preserving or enhancing the character or appearance of that area.

### **7.0 Planning Issues**

7.1 The key policy considerations are the suitability of the building for conversion, protection of the Green Belt, safeguarding the character of the area and highway safety.

## **Principles of Development and Policy Considerations:**

- 7.2 The proposal lies within the Green Belt where policies restrict development unless it falls into an exempt category or, failing that, very special circumstances arise. The site, subject to the application, is also outside any defined development limits where new housing is not generally supported (policy GS1, GS2, GS6 and H3 and eLP SS1, SS2 & SS10).
- 7.3 The application site lies within the open countryside. Saved Local Plan Policy GS1 and eLP 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.
- 7.4 Policy GS6 & NE1 of the adopted Local Plan (2005), eLP policies SS9 and SDC3 seeks to ensure that proposals outside of defined settlements are in keeping with their countryside location and do not represent a prominent intrusion, whilst saved policy BE1, eLP policies SDC12 seeks to ensure that the design, scale and massing of development is in keeping with the surrounding character.
- 7.5 Local Plan (2005) Policy BE11 and eLP (2014-2034) policy SDC5 seek to ensure that development proposal would not be harmful to designated heritage assets. The NPPF seeks to ensure that where less than substantial harm is identified this harm will be assessed against the public benefit(s) of the proposal. The Moss Valley Conservation Area includes swathes of open countryside and given that the building is already existing it is not considered that harm from its conversion would result to the Conservation Area. The site is well confined and any domestic use around the building would be screened by the existing mature vegetation along the western boundary and the buildings themselves.
- 7.6 Local Pan (2005) Policy GS2 and eLP (2014-2034) policy SS10 are particularly relevant to this proposal as they seek to prevent harmful development within the Green Belt unless very special circumstances exist. There are some exceptions to the policy such the reuse and conversion of existing buildings providing it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it and satisfies the relevant criteria of Policy GS7.
- 7.7 Policy GS7 advises that planning permission for change of use will be permitted provided that the use, scale or type of operation will not have an

adverse effect upon the character of the area or neighbouring land uses. Planning permission for the conversion or change of use of an existing building will be granted provided that:

- (a) the building is of a permanent and substantial construction;
- (b) where a building is situated outside a Settlement Development Limit it is capable of conversion without the need for major rebuilding or extension;
- (c) the form, scale, massing, materials, general design and appearance of the development respects the character and appearance of the original building, the site and its surroundings with particular regard to local distinctiveness in design; and
- (d) the proposed use of the curtilage of the building does not have an adverse effect upon the character of the area or neighbouring land uses.

- 7.8 The above policies are considered to be generally reflective of the policies contained within the NPPF and due weight can be given to them and the development plan as a whole. (Paragraph 213). In particular chapter 13 'Protecting the Green Belt' of the NPPF states that the Government attaches great importance to Green Belts with the fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

#### **Suitability of the building for conversion**

- 7.9 The proposal is seeking to reuse an existing timber stables to create a single storey residential dwelling. The scope and extent of the submitted Structural Report (SR) is limited but it does set out that, at the very least, the existing floor would need to be levelled, a damp proof membrane installed along with thermal insulation (to floor and walls) and the roof trusses and rafters may need strengthening with additional members added as necessary. No mention is made of the installation of the eight roof lights and how this may also affect the structural stability of the building. Overall, Officers consider that on the basis of their own observations and the limited information set out in the SR the building cannot be considered to be substantial.
- 7.10 In view of the above, it is officers view that the building does not meet the definition of being of a permanent and substantial construction as set out in the NPPF; and would conflict with the Local Plan Policies in relation to development in the Green Belt, and conversions of buildings generally. On this issue it is therefore concluded that the proposals represent inappropriate development within the Green Belt.
- 7.11 Inappropriate development is by definition harmful and should not be approved except in very special circumstances (VSC). The provision of

onsite security are not considered to represent very special circumstances. On consideration of the proposal it is not considered that the principles of development is acceptable due to the form and construction of the stable building. The proposal would require major intervention in allowing the building to function as an independent dwelling and is considered to fail to comply with the relevant policies of the Development Plan.

### **Impact upon the Openness of the Green Belt**

- 7.12 The proposal relates to the reuse and conversion of timber looseboxes and tack room. The application has been supported with a Structural Survey that advises that subject to modification and strengthening the building could be converted for habitable use.
- 7.13 Local Plan 2005 Policy GS2 and eLP 2014-2034 policy SS10 make reference to such proposals and, subject to wider consideration, supports them in principle providing they do not impact on openness. The National Planning Policy Framework (NPPF) states that the essential characteristic of Green Belts is their openness and permanence and that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping the land permanently open. The effect on openness is therefore a material consideration of significant weight.
- 7.14 The timber stable building sits adjacent to existing agricultural storage buildings and is in a mixed use: agriculture and equestrian. The proposal would utilise the existing hard standing areas in front of the stable for parking of vehicles and an amenity area is to be created to the west of the building. This area is currently used for outdoor storage associated with the agricultural/equestrian use and would be replaced with the domestic paraphernalia associated with domestic use. Whilst there would be a degree of change it is not considered that there would be any greater impact upon the openness of the Green Belt and therefore the change of use would be negligible.
- 7.15 Details of the boundary treatment has not been submitted and could be requested by condition in order to ensure that a suitable treatment can be provided to safeguard the character of the site and help respect the openness of the Green Belt.

### **Impact upon the Moss Valley Conservation Area**

- 7.16 The site is located within the Moss Valley Conservation Area. The stable building is positioned alongside other agricultural buildings and is well screened from the north and east. Due to the existing use of the site it is not considered that the change of use to a domestic one would have a

signification impact upon the Conservation Area. Officers consider that impact to be neutral.

### **Impact upon Neighbouring Properties and the amenity of future occupiers of the building**

- 7.17 The site is wholly within the open countryside, sits alone and therefore would not give rise to any loss of residential amenity to others as a result of the proposed change in use.
- 7.18 However, in assessing the proposal, it is appropriate to consider the amenities of any future occupier(s). The proposal seeks to utilise the existing openings to ventilate and provide natural light to the habitable rooms. The stable building contains a door and small window for each loose box and the elevations show the doors to be retained. There are no openings on the rear and sides of the stable building. It is not shown, or clear, if glazing is to be provided behind the stable doors and the floor plans show that these will be opening doorways. Whilst the small windows are adequate for its intended use as stabling livestock, it is not considered that it would lead to acceptable living conditions for habitable use. The dining room has no window but an opening solid door, the lounge would have no windows or door and would only receive natural light from the proposed roof lights. The master bedroom is served by two roof lights and a window, but the internal door will open on to it.
- 7.19 Overall, it is not considered that the proposal would provide an acceptable standard of living and the future occupiers would be reliant on artificial light which is counter to the aims of sustainable development. The proposal is therefore considered to fail to comply with Local Plan Policies GS1, GS7, BE1 and H12; eLP Policies SS1, SDC1 and SDC12, and the NPPF chapters 5 and 12.

### **Highway Safety**

- 7.20 The conversion would be served from the existing access. Two parking spaces are to be provided to serve the conversion and would be separate from the agricultural buildings. The Highways Authority have been consulted and have not provided comment. Given the existing use of the site it is not considered that a domestic use would create any severe impacts upon the highway network. The Highway Authority did not object to the earlier application 19/00219/FL.
- 7.21 The proposal can be served by a safe access and parking can be provided within the site and therefore it is considered that the proposal complies with policies T2 and T9 of the Local Plan.

## **Other Material Considerations**

- 7.22 The applicant and Councilor Renwick have advanced an argument that other stables in Troway have been approved for conversion and therefore a precedent has been set. On reviewing the permission given in respect of 14/00979/FL the building in that case was constructed from block work and considered to be of permanent construction. Notwithstanding that, or any other case put forward, whilst consistency is important, each application is to be adjudged on its own merits as circumstances may change between cases and applications. In the case of this timber framed building and the works identified, although proposing no extensions, it is not considered to be of a substantial or permanent construction and therefore fails to comply with LP (2005) Policies GS2 and GS7 and Publication Draft Local Plan Policies SS10 and SDC1.

## **8.0 Summary and Conclusion**

- 8.1 The proposal is seeking to convert an existing timber stable building to create a single storey one bedroom dwelling to be used by the applicants who wish to provide onsite security and surveillance for the small holding. The proposal is supported with a Structural Report which, subject to various provisos, states that the buildings could be made acceptable for human habitation with modifications.
- 8.2 Conversion of existing rural buildings in the Green Belt is supported by North East Derbyshire Local Plan Policies GS2 and GS7 and within the emerging Local Plan Policies SS10 and SDC1; and the NPPF paragraph 146, providing they would not require major reconstruction or alterations and that there would not be a greater impact upon the openness of the Green Belt.
- 8.3 It is not considered that the building is suitable for residential conversion due to the fact that it requires to be substantially upgraded to provide suitable accommodation for all year living accommodation and the living conditions of future residents would be substandard. The proposal is considered to be inappropriate development and very special circumstances are therefore required to be demonstrated. Providing security and surveillance is not considered to be very special circumstances sufficient to warrant the conversion of this timber structure.
- 8.4 Taking into account all material considerations and comments received, the proposal is not considered to be policy compliant. Accordingly, the application is recommended for refusal.

## 9.0 Recommendation

### 9.1 **REFUSE** Planning permission for the following reasons:

1. The application building is a timber framed building which is located within the North East Derbyshire Green Belt. The National Planning Policy Framework sets out that the re-use of buildings is not inappropriate development provided that the building is of a permanent and substantial construction. It is clear from the submitted information that the building would need extensive work to make it habitable, including structural work to the roof trusses, a newly lined floor, the provision of new structural stud walls and alterations to the roof. Whilst the building may be in good condition and suitable to provide stabling it is not substantial being a timber framed building with no foundations.

The building therefore does not meet the definition of being a permanent and substantial construction and would represent inappropriate development within the Green Belt. Inappropriate development is by definition harmful, and the personal circumstances of the applicant do not represent the very special circumstances which would outweigh the harm to the Green Belt.

To grant permission would therefore be contrary paragraphs 145 and 146 of the NPPF and Local Plan Policies GS2, GS7 and BE1 of the North East Derbyshire Local Plan, and Publication Draft Local Plan Policies SS1, SS10 and SDC1; and the National Planning Policy framework when taken as a whole.

2. Due to the unsuitable design of the building and lack of openings to facilitate natural light and ventilation it is considered that the amenity of future residents would be severely impacted. The adverse impacts in this regard would significantly and demonstrably outweigh the limited benefits when assessed against the policies in the Framework taken as a whole. As a result, the proposal would not be a sustainable development.

To grant permission would therefore be contrary Local Plan Policies GS1, GS2, GS7 and BE1 of the North East Derbyshire Local Plan, and Publication Draft Local Plan Policies SS1, SS10 and SDC1; and the National Planning Policy framework when taken as a whole.



## PLANNING COMMITTEE – 20 October 2020

**REFERENCE NUMBER:** 20/00570/FL      **Application Expiry Date:** EoT until 23/10/20  
**Application Type:** Full application

**Proposal Description:** Construction of cabin as holiday let within grounds (Private Drainage System)

**At:** Brockhurst Mill, Mill Lane, Brockhurst, Ashover, S45 0HS

**For:** Mr Harry Caldicott

**Third Party Reps:**      **Parish:** Ashover  
2 obj, 1 support  
**Ward Name:** Ashover

**Author of Report:** Emily Cartwright      **Date of Report:** Thursday 1<sup>st</sup> October 2020

**MAIN RECOMMENDATION:    CONDITIONALLY APPROVE**

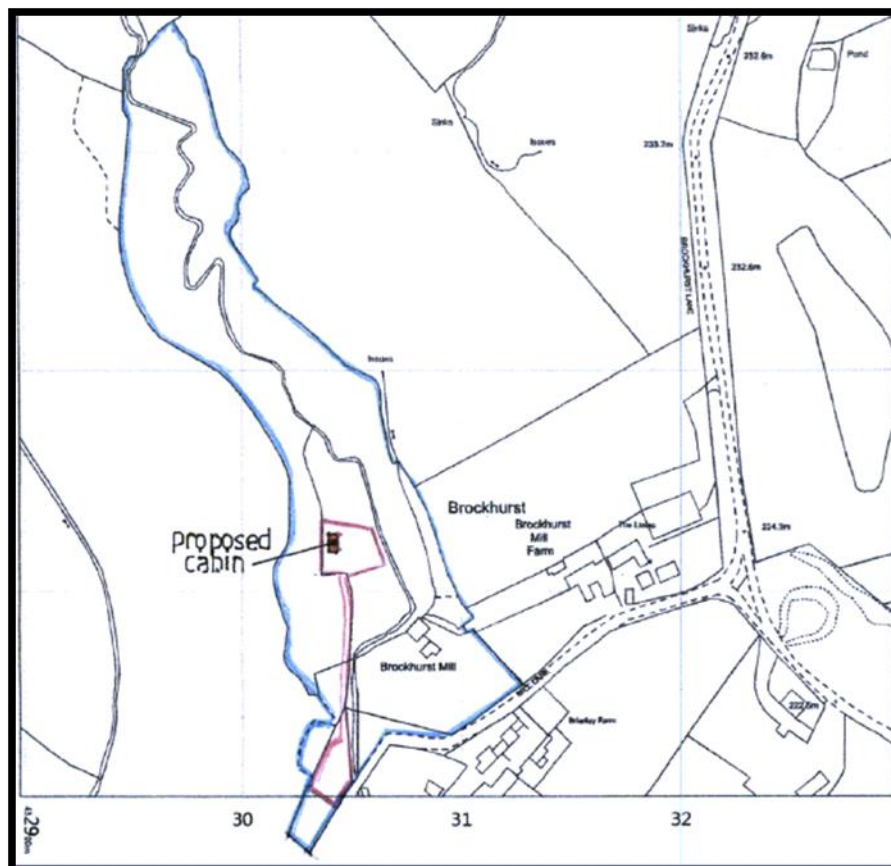


Fig 1: Site Location Plan

## **1.0 Reason for Report**

- 1.1 Local ward member, Councillor Armitage has formally requested that the application be considered by members of planning committee as the proposed development is inappropriate development contrary to the Ashover Neighbourhood Plan.

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site relates to an area of grassland to the north west of Brockhurst Mill; a detached converted stone Mill which has recently been extended and updated into a family home.
- 2.2 The area of improved grassland traditionally used to graze livestock forms a relatively flat parcel of land to the east of Smalley Brook, which runs in a north/south direction through the site. To the east of this lies a tree covered slope and Public Right of Way (PRoW 111) above which follows the direction of the Brook past the Mill Pond towards Brockhurst.
- 2.3 To the west, the site is enclosed by a dry stone wall and the land steeply slopes up away from Smalley Brook. This forms a secondary broad-leaved woodland which forms part of the designated Local Wildlife Site (Ref: NE012) which covers the site.
- 2.4 Due to the topography, views of the site are not possible from the highway or neighboring properties.
- 2.5 The site is located within open countryside which is designated as a Special Landscape Area.

### **Proposal**

- 2.6 Full permission is sought for the construction of one, two bedroom log cabin to be used as a holiday let within the grounds of Brockhurst Mill.
- 2.7 The proposed chalet style timber cabin would measure externally 13m by 6m, with a ridge height of approximately 2.5m and be constructed from Oak with stone slate roof. The western roof elevation would feature solar panels and the cabin would be served by a cesspit.
- 2.8 The site would be utilise the existing access point off Mill Lane, to the west of the bridge and main access to Brockhurst Mill. A turning area and two designated off road parking spaces would be provided for the proposed holiday let users.

- 2.9 Access to the proposed cabin would be taken along a footpath constructed from a mixture of gravel stones and boardwalk through the woodland.
- 2.10 The application is accompanied by a Design and Access Statement and an Ecological Appraisal Report.

### **3.0 Relevant Planning History**

- 3.1 93/00014/FL – Conversion of existing mill building to form one dwelling (Conditionally Approved - S106)
- 3.2 97/00016/FL – Erection of a garage/store (Refused)
- 3.3 99/00017/FL – Erection of double garage/store (Refused)
- 3.4 17/01008/FL – Application for two storey and single storey extensions (affecting footpath 111) (Conditionally Approved)

### **4.0 Consultation Responses**

- 4.1 The **Parish Council** considers that whilst the Ashover Parish Neighbourhood Plan supports local businesses, the Parish Council expressed concern at proposals for drainage and waste removal and the impact on wildlife due to a proposed pathway through a wildlife site.
- 4.2 The **Ward Member** called the application into committee on the grounds that development would be inappropriate and contrary to the Ashover Neighbourhood Plan.
- 4.3 County **Highways Authority** confirmed that whilst the access and single width highway is not an ideal situation for a single holiday let (which it is considered generates fewer vehicular movements than a permanent residence), it is considered it could be difficult to justify and sustain an objection on highway safety grounds, or meet the test of 'severe', as referenced in the National Planning Policy Framework. No objection is raised subject to conditions.
- 4.4 **Derbyshire Wildlife Trust** (DWT) have reviewed the Ecological Appraisal prepared by Armstrong Ecology Ltd, dated July 2020 and have confirmed that providing the mitigation and enhancement works are fully implemented they consider that the impact is unlikely to result in a net loss of biodiversity and the impacts of the Local Wildlife Site will be minimal. No objection is raised subject to conditions
- 4.5 **Environmental Health** (EHO) were consulted, however no comments have been received.
- 4.6 **NEDDC Drainage** were consulted, however no comments have been received.

- 4.7 **Severn Trent Water** (SW) were consulted, however no comments have been received.

## 5.0 Representations

- 5.1 The application was publicised by way of neighbour letters and the display of a site notice. A number of material objections and a letter of support have been received from three neighbours which can be summarised as follows:

### **Objections:**

- It is a statutory requirement that planning applications are determined in accordance with the Development Plan. The application conflicts with a number of policies in particular Policy E11 of the Local Plan.
- This is no evidence to suggest that there is a shortfall of holiday accommodation in the local area.
- Concern is expressed that in the future there will be pressure to use the property as a dwelling without any restrictions on occupancy.
- It is noted that Policy WC7 of the emerging Local Plan allows for new tourism development, however the emerging Local Plan has been delayed and its adoption is way off. Consequently, little weight should be attributed to Policy WC7.
- Policy AP2 of the ANP allows for development in the countryside, if it supports the local economy. Paragraph 83 of the National Planning Policy Framework 2019 (NPPF) also states that planning decisions should enable sustainable rural tourism, but only if it respects the character of the countryside. For the reasons given in detail below, it is contended that the environmental impacts of the proposal on the character of the area significantly outweigh any benefits to the local economy (which are likely to be limited in any event).
- The proposal will introduce new built development, plus ancillary domestic paraphernalia and activities (such as BBQs, hot tubs, play areas and lighting) subsequently changing the appearance of the area.
- The proposed cabin and its curtilage will be highly visible from the public right of way and will have an urbanising effect that make the use of the public right of way less enjoyable.
- The proposed parking area and footpath will be visually intrusive and environmentally harmful in what is a highly prominent and environmentally sensitive position, close to the road frontage and existing stream.
- It is difficult to see how the parking area and footpath can be constructed without the removal of trees and other vegetation.
- The line of the proposed route in the ecology assessment is different to that shown on the site plan.
- The site is located within a SLA, Policy NE2 only permits development that does not materially detract from the surrounding landscape. Protection of the landscape is a key requirement of AP13 too. Paragraph 170 of the NPPF states that planning policies and decision should contribute to and enhance the local environment. The proposal conflicts with both the existing and emerging Development Plan and should be refused.
- The site of the building is described in part as 'improved grassland'. However, my client points to the recent removal of trees and vegetation around the

perimeter of the site and the impact this may have had on biodiversity, particularly as work was carried out during the nesting season and accelerants were used to burn the wood. Other recent works included the widening of the stream, which my client states resulted in sand and other debris being deposited in the water and the disappearance of small fish. There is no guarantee that further work within the LWS will not be carried out in a manner that will be harmful to biodiversity in the area. [*Officer note: previous works undertaken within the LWS are not material to the determination of this application.*]

- Policy NE3 states that planning permission will not be granted for development that is harmful to flora and fauna, unless adequate mitigation measures are put in place. This is consistent with paragraphs 174-177 of the NPPF and policy SDCS4 of the emerging LP. It is questionable as to whether the application proposal will achieve this.
- Given the relatively small scale nature of the development, it is unlikely that the proposal will make any significant impact on the local economy in term of job creation or local spending.
- Whilst each proposal has to be considered on its own merits, it is contended that approval will create a precedent for further ad-hoc developments of a similar nature in the countryside, and cumulatively will have an adverse effect on the rural character and landscape of North East Derbyshire.
- I object on the basis of local knowledge of the site. The main reason for my objection is the proposed access pathway runs alongside Smalley Brook which is a contributor to the river Amber. The pathway route encroaches onto a designate Derbyshire Wildlife site (SDC4) and this preserved site also includes the proposed cabin location. The site is greenfield and I understand historically, that this has an agricultural holding. Any development would require access for builders and if the proposed route is the same route as proposed for occupant access, would destroy the local fauna and wildlife adjacent to the brook, as this would require a more substantial roadway.

**Letter of support:**

- Since the occupant purchased Brockhurst Mill, a few years ago, it has been a pleasure to see their sympathetic restoration of the property and the surrounding land. Their efforts have extended to noticeably improving the public right of way through the property, which has been a real joy for not only myself but many other local ramblers. The proposed cabin, located in the grounds of the property will be a wonderful addition to Brockhurst Mill which I have little doubt will be constructed in a similarly sympathetic and eco-friendly manner. I have no concerns that the addition of the holiday cabin will make using the public right of way less enjoyable, quite the contrary.

## **6.0 Relevant Policy and Strategic Context**

### **North East Derbyshire Local Plan (Adopted November 2005)**

- 6.1 The following policies of the Local Plan are material to the determination of this application:

GS1 Sustainable Development

- GS6 Open Countryside
- E11 Tourism Accommodation
- NE1 Landscape Character
- NE2 Special Landscape Area
- NE3 Flora and Fauna
- NE5 Other Sites of Importance to Nature
- NE6 Development Affecting Nationally Rare Species
- NE7 Protection of Trees and Hedgerows
- BE1 General Design Principles
- T2 Highway Access and the Impact of New Development
- T9 Car Parking
- CSU4 Surface and Foul Water Drainage

### **Emerging North East Derbyshire Local Plan (Under Examination)**

- 6.2 The emerging Local Plan (eLP) was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications. It is expected that this consultation will take place in the autumn with Plan adoption by the end of 2020.
- 6.3 The emerging Local Plan is therefore at an advanced stage and should be attributed appropriate weight in decision making.
- 6.4 The following emerging Local Plan policies are material to the determination of this application:

- SS1 Sustainable Development
- SS9 Development in the Countryside
- WC7 Tourist Accommodation in the Countryside
- SDC2 Trees, Woodlands and Hedgerows
- SDC3 Landscape Character
- SDC4 Biodiversity and Geodiversity
- SDC11 Flood Risk and Drainage
- SDC12 High Quality Design and Place Making

### **Ashover Neighborhood Plan**

- 6.5 The Ashover Neighborhood Plan (ANP) was adopted on 9 February 2018. The following policies should carry weight in any decision:

- AP2 Development Proposals Outside SDL's
- AP11 Design
- AP13 Landscape Character
- AP15 Important Trees and Hedgerows
- AP17 Renewable Energy and Low Carbon technology
- AP19 Dark Skies

## **National Planning Policy Framework (NPPF)**

- 6.6 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. The main sections are covered in the assessment below.

## **Other Material Planning Considerations**

- 6.7 Successful Places Interim Planning Guidance, adopted December 2013.

## **7.0 Planning Issues**

### **Principle of Development**

- 7.1 The proposed site is located outside of any defined Settlement Development Limit (SDL), falling within a countryside location, designated as a Special Landscape Area.
- 7.2 Local Plan Policy GS1 states that all development proposal will be located within the defined SDL's, unless the development is acceptable in the countryside, or overriding exceptional circumstances are demonstrated. The purpose of the SDL's is to restrain development in the countryside and to focus development upon sites within the SDL's and/or allocated sites to achieve a sustainable pattern of development.
- 7.3 Policy GS6 states that new development will only be supported where it is in keeping with the character of the countryside and should not represent a prominent intrusion into the countryside.
- 7.4 Policies NE1, NE2, NE3, NE5 and NE6 states that development will only be permitted where it would not materials detract from the surrounding landscape, not adversely affect the setting of any heritage or wildlife resources.
- 7.5 Policy E11 states that proposals for new tourist accommodation in countryside locations will be permitted where they involve the re-use and conversion of existing buildings or extension of existing tourist facilities only.
- 7.6 Some of the saved Local Plan Policies above are more restrictive than the aims of the NPPF and the emerging policies contained in the eLP. Specifically E11 is considered to be out of date and should therefore should be given significantly reduced weight.
- 7.7 The Council is now at an advanced stage in the production of a 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.

- 7.8 Policies WC6 and WC7 of the Emerging Local Plan considers District wide visitor economy and tourist accommodation in the countryside. Proposals will be supported where they can demonstrate that a rural location is appropriate, is easily accessible, is appropriate to the site in terms of its scale, design or materials; and respects the character and appearance of the open countryside. These policies are more aligned with the NPPF and should carry weight in the decision process.
- 7.9 New visitor accommodation will be permitted where it is not used for permanent residential occupation and supports future business viability or is in accordance with countryside policies. New chalets, will be permitted where they are adequately screened all year round, laid out in a manner which would not adversely affect the character of the area, the materials and colour along with any infrastructure is appropriately designed to reduce the visual impact of the proposed development and does not significantly adversely affect the amenity of local residents.
- 7.10 The Ashover Neighbourhood Plan (ANP) was made on 26<sup>th</sup> February 2018, and now carries full weight in the decision process. Policy AP2 is relevant to this development as the policy states that outside of the settlement limits of Ashover, Kelstedge and Littlemore it will be treated as open countryside. Policy AP2 seeks to protect the countryside.
- 7.11 Paragraphs 83 and 84 of the National Planning Policy Framework (NPPF) states that decisions should enable the sustainable growth and expansion of all types of business in rural areas through well designed buildings and the development and diversification of land based businesses. The NPPF also states that it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads.
- 7.12 The NPPF also states that decisions should enable sustainable rural tourism developments which respect the character of the countryside. Paragraph 84 goes onto state that in rural areas it is important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads.
- 7.13 In principle, holiday let accommodation on this site is considered acceptable.

### **Design and Landscape Considerations**

- 7.14 The application site is rural in character, comprising of an area of grassland within a wooded valley to the west of Smalley Brook and north west of Brockhurst Mill; the application dwelling. The surrounding street scene of features stone constructed dwellings and farms, served by narrow lanes bounded by open countryside.



- 7.15 The site plan illustrates that the proposed log cabin would be set back from the highway (approximately 95m) behind an existing mound. Due to the topography of the land, and the mixed woodland area to the west views of the proposed log cabin would only be possible from the public right of way (Prow 111) to the east of the site, through existing trees.
- 7.16 It is considered that the log cabin would be of a modest scale, designed sympathetically to the surrounding countryside setting with the use of high quality materials. Its siting to the west of the site, would ensure that the log cabin is read in context with the woodland surroundings.
- 7.17 Given the countryside and Special Landscape setting of the site, it is important that hardstanding and boundary treatments on site are kept to a minimum in order to retain the open nature of the site and character of the countryside and Special Landscape setting. As such, suitably worded conditions can be included on any decision.
- 7.18 In view of the above, it is considered that due to the context of the site, the log cabin is not easily replicated. The proposed log cabin would of high quality design which will respect the rural character of Brockhurst and the Special Landscape Area.

### **Privacy and Amenity Considerations**

- 7.19 The layout plan indicates that the log cabin would be sited approximately 80m away from the closest neighbouring property, providing an acceptable distance in terms of potential overlooking, loss of privacy and noise disturbance.
- 7.20 In view of the above, it is considered that a single log cabin could be satisfactorily accommodated within the site without giving rise to any loss of privacy and amenity to neighbouring residents.

### **Highway Safety Considerations**

- 7.21 The proposal is for a single two bedroom detached log cabin. The site plan demonstrates that the existing access off Mill Lane would be utilised, and two parking spaces and a turning area would be provided to serve the holiday let accommodation.
- 7.22 The County Highways Authority was consulted on the proposal, who accepted that whilst the highway network in the vicinity comprises of generally single vehicle width, and the visibility from the access not been ideal, a single holiday let would be difficult to justify or sustain an objection highway safety grounds. The HA raise no highway objection subject to the inclusion of conditions.

- 7.23 In view of the above, it is not considered that the proposed development would lead to a demonstrable harm to highway safety.

### **Ecology and Biodiversity Considerations**

- 7.24 The application site is covered by Local Wildlife Site NE012. As such the applicant has provided an Ecological Appraisal prepared by Armstrong Ecology Ltd, dated July 2020 to accompany the application.
- 7.25 The submitted plans show that the log cabin would be located at least four metres from the western edge of the improve grassland in order to avoid the woodland plant species present (bluebell and yellow pimpernel) present on the interface with the woodland to the west.
- 7.26 Derbyshire Wildlife Trust (DWT) have reviewed the submitted details, and consider that it provides sufficient information in assessing the potential impact of the proposal on biodiversity.
- 7.27 DWT note that the proposed cabin is located in an area of improved grassland and it will not directly impact on the secondary broad-leaved woodland for which the LWS is primarily designated. It is also noted that the car park is also located outside of the LWS, at the edge of the woodland.
- 7.28 Access to the cabin is along a proposed footpath and though there may be minor impacts from the construction of the path and boardwalk, DWT do not consider that these are likely to be significant and they will be temporary in nature. It is acknowledged that there will be an increased human presence adjacent to the woodland, but as this is only one cabin and access is on foot it is deemed to be relatively minor. However it is appreciated that the routing of this path should align with that put forward by the applicant's ecologist and agreed with DWT, as such a condition should be included in any decision to ensure that the agreed pedestrian route it provided on site to safeguard any ecological features on site.
- 7.29 In terms of lighting, minimal details have been provided and due to the Ashover Dark Skies and countryside wildlife site setting it is considered necessary to include a suitably worded condition to control any external lighting.
- 7.30 In view of the above, it is considered that provided the mitigation and enhancement works are fully implemented that the impact of the proposed development is unlikely to result in a net loss of biodiversity and that impacts on the Local Wildlife Site will be minimal.

### **Other Considerations**

- 7.31 The application site is within Flood Zone 1, which has a low probability of flooding.

- 7.32 The site plan demonstrates that proposed log cabin would be served by a private drainage system in the form a cess pit. NEDDC Drainage and EHO have been consulted, however no comments have been received. Due to the limited details provided, it is considered necessary that an appropriately worded condition is added to any decision.
- 7.33 The application site lies within a Development Low Risk Area as defined by the Coal Authority.

## **8.0 Summary and Conclusion**

- 8.1 Having taken into account all the material considerations, it is considered that the proposed development is acceptable in principle and would have an acceptable impact upon the character of the countryside and Special Landscape Area.
- 8.2 The proposed development would not result in an adverse detrimental impact upon the privacy and amenity of nearby residential properties or neighbouring land uses, nor would it lead to an adverse impact upon highway safety or lead to a loss of net biodiversity.
- 8.3 It is therefore considered that the proposed development would be in line with the emerging local plan policies of the Council and the overarching aims of the NPPF, therefore the proposal should be granted subject to conditions.

## **9.0 Recommendation**

- 9.1 APPROVE Permission for the above reasons, subject to the following conditions:-

### **Conditions**

1. The development hereby permitted shall be started within 3 years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the submitted plans, unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice.
3. Notwithstanding the submitted details, before any above ground work commences, details of the pedestrian route from the parking area to the holiday let shall be submitted to and approved in writing by the Local Planning Authority. The final routing shall be based on the recommendations of the Ecological Appraisal prepared by Armstrong Ecology Ltd and agreed with Derbyshire Wildlife Trust. The approved pedestrian route shall then be implemented in full in accordance with the

approved details and retained free from impediment for the lifetime of the development.

4. Before any above ground works starts, precise specifications (including the manufacturer, range and colour details where applicable) of the walling and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
5. Notwithstanding the submitted details, before any above ground works starts, details of the existing ground levels, proposed finished floor levels of the dwellings, along with the proposed finished ground levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
6. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking or re-enacting that Order) no extensions (Part 1, Class A), dormer windows (Part 1, Class B), alterations to the roof (Part 1, Class C), porches (Part 1, Class D), curtilage buildings (Part 1, Class E), and means of enclosure (Part 2, Class A) shall be erected/constructed without first obtaining planning permission.
7. Before any other operations are commenced, the existing access to Mill Lane shall be modified in accordance with a drawing first to be submitted and approved, in writing, by the Local Planning Authority demonstrating a minimum access width of 5.0m for a minimum distance of 5m into the site, laid out, constructed and provided with maximum achievable visibility splays in both directions from a distance 2.4m back from the carriageway edge for a distance of 27m in both directions. The area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.
8. The proposed cabin shall not be taken into use until such time as space has been laid out within the site for the parking and manoeuvring of vehicles such that they may enter and leave the site in a forward gear. The off-street parking space shall have minimum dimensions of 2.4m x 5.5m clear of any manoeuvring area.
9. There shall be no gates or other barriers on the access unless otherwise agreed in writing by the Local Planning Authority or prior to any works commencing, the applicant shall submit and have approved, in writing, by the Local Planning Authority a revised parking layout demonstrating that any gates could open/close without interfering with parking/manoeuvring.
10. The cabin shall be used as a holiday let only and shall not be sold, sub-let or let to be occupied on any other basis.

11. The development shall be carried out in strict accordance with the mitigation strategy/measures detailed in sections 4 and 5 of the Ecological Appraisal Report (Armstrong Ecology Ltd, July 2020), with any amendments agreed in writing with the Local Planning Authority.
12. No removal of vegetation shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
13. Prior to the occupation of the holiday let hereby approved, a detailed external lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved external lighting strategy shall then be implemented in full prior to the first occupation of the holiday let and retained as such thereafter for the lifetime of the development.
14. Before development starts, details of the package treatment drainage plant, including the precise location and specification, shall be submitted to and approved in writing by the Local Planning Authority. The approved treatment plant shall then be installed prior to the first occupation of the holiday let hereby approved and shall be maintained as such thereafter.
15. Notwithstanding the provisions of Part C, Class C3 "Dwelling House" to the Schedule of the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the premises shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order.

The property shall not be occupied by any persons for a total period exceeding 28 days in any calendar year.

The owner shall maintain a register of occupiers for each calendar year including names, addresses and length of stay, and a copy of the register shall be supplied to the Local Planning Authority by 31<sup>st</sup> January each year.

**Notes:**

- DISCON note
- NMA note
- Low risk coal note
- The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

- Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- The applicant should be aware of a Public Right of Way (Footpath 111 on the Derbyshire Definitive Map for the area) that runs through land indicated as being in the ownership/control of the applicant. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.
  - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
  - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
- The applicant is advised of the importance of ensuring that the facility is managed in an appropriate manner so as not to cause nuisance to any nearby noise sensitive premises. Should any complaints be received in relation to potential nuisance the Local Authority have a duty under the Environmental Protection Act 1990 to investigate and where a statutory nuisance is found to exist, or may occur there is an obligation to serve an abatement notice.

## PLANNING COMMITTEE – 20 October 2020

**REFERENCE NUMBER:** 20 / 00446      Application Expiry Date: 23 October 2019  
**Application Type:** Full application

**Proposal Description:** Chante of use of land to create 2 no. parking spaces (Resubmission of 20/00125/FL)

**At:** 1 Overton Lodge, Jetting Street, Milltown, Ashover, S45 0EY

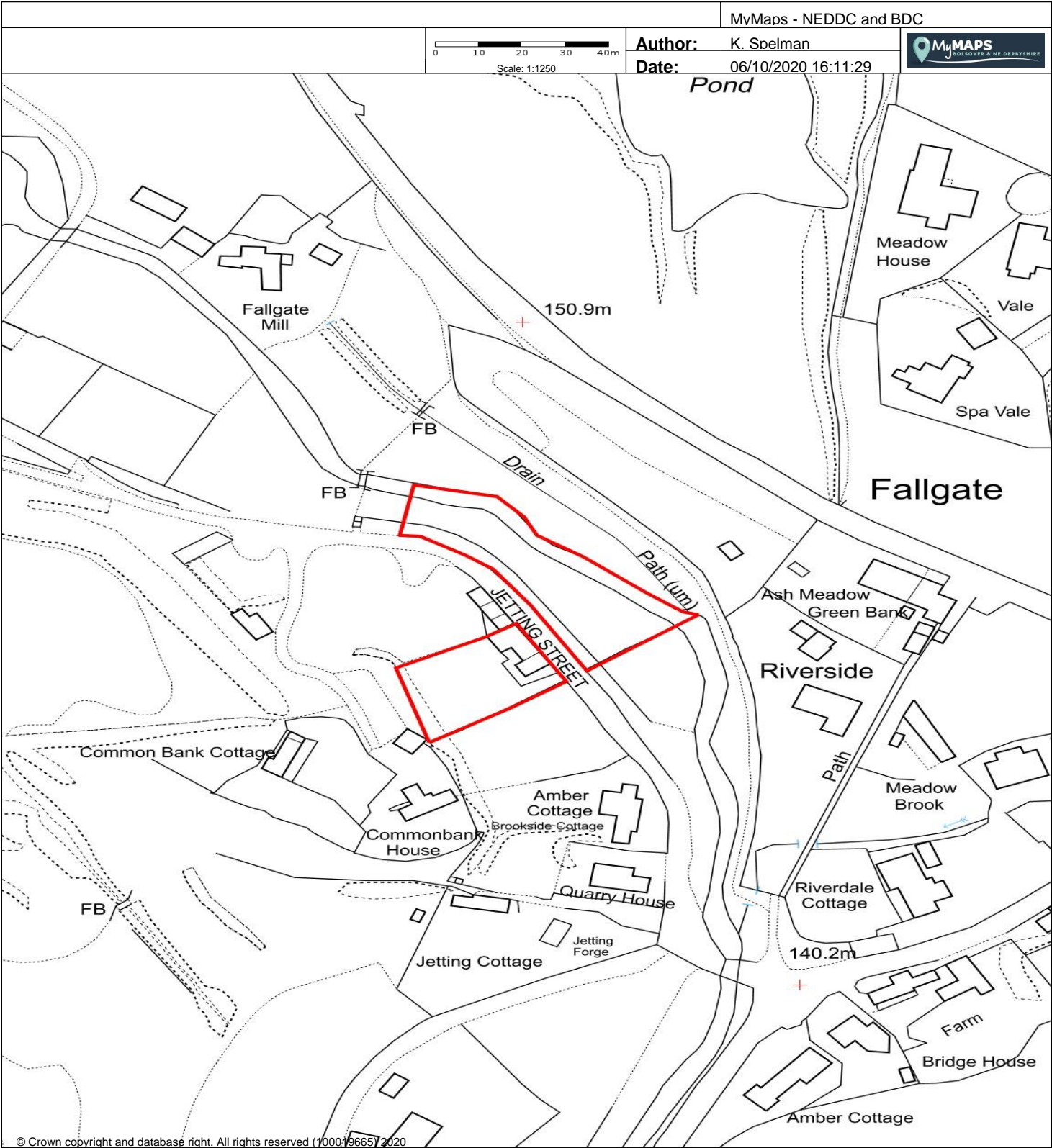
**For:** Mr Perez

**Third Party Reps:** 3      **Parish:** Ashover Parish Council  
**Ward Name:** Ashover

**Author of Report:** Emily Cartwright      **Date of Report:** 06 October 2020

**MAIN RECOMMENDATION: REFUSE**

Location Plan on next page





## **1.0 Reason for Report**

- 1.1 Local ward member Councillor Armitage has formally requested that the application be considered by members of planning committee because the parking place could cause restriction for 20/00484/FL and impact on the landscape.

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site relates to an area opposite 1 Overton Lodge, Jetting Street which sits along the back edge of the highway.
- 2.2 The area of land comprises of a low raised plant bed, with a stone wall measuring approximately 300mm high.
- 2.3 Jetting Street also doubles as a Public Right of Way (PRoW 60) and Bridleway (136). It is also the former route of the Stretton and Ashover Light Railways.
- 2.4 The River Amber lies to the eastern side of Jetting Street, with a footpath (PRoW 143) crossing the river further to the north of Fallgate. A small section of the eastern part of the application site sits within Flood Zone 2 and 3.
- 2.5 The site is located within open countryside which is designated as a Special Landscape Area. It also sits within Stars Wood and Milltown Quarry which a special designated Local Wildlife Site (NE300).

### **Proposal**

- 2.6 Full permission is sought for the change of use of land to create two parking spaces to the eastern boundary of Jetting Street along the back edge of the highway
- 2.7 It will involve the clearance of the highway verge and resurfacing with permeable tarmac to match the highway. The low wall will be rebuilt, and a raised planting bed will be formed behind the double parking space, parallel with the highway. The existing planting would be re-sited in the new raised bed.

## **3.0 Relevant Planning History**

- 3.1 03/01190/FL – Proposed engineering operation to remove bund (Refused)
- 3.2 20/00125/FL – Application for change of use of land to create 2 no parking spaces (Refused)

## 4.0 Consultation Responses

- 4.1 The **Parish Council** considers that the proposal does not comply with Ashover Parish Neighbourhood Plan Policies AP1 and AP13.
- 4.2 County **Highways Authority** raises no objection subject to the inclusion of conditions.
- 4.3 County **Archaeology** raises objection to the application in its present form due to the lack of local of heritage information.
- 4.4 The **Environment Agency** (EA) raise no objections to the proposed development.

## 5.0 Representations

- 5.1 The **Ward Member** called the application into committee on the grounds that the parking place could cause restriction for 20/00484/FL and impact on the landscape.
- 5.2 The application was publicised by way of neighbour letters and the display of a site notice – A number of material objections have been received from three neighbours which can be summarised as follows:
- The revised proposals do not address the reasons given for the refusal of the previous planning permission. The site is situated in a countryside location, designated as a Special Landscape Area, where policies seek to protect the character of the area and ensure that new development does not detract from, and is sympathetic to, its special character
  - If this proposal is accepted it will set a precedent for the removal of more of the Ashover Light Railway embankment in other places.
  - To change the area between the road and the river into some sort of parking bay would totally alter the feel of this beautiful rural environment
  - Would lead to further destruction of the industrial archaeology of this historic part of Milltown, The bank which would be removed is the central section of the rail track which led from the lime kilns to the station at Milltown. The upper part of the track still crosses the road further up, and NEDDC took the view that this and other evidence of historic industry should be preserved when approving the development of the lime kiln site for housing.
  - Damage to the scenic beauty of this part of the valley. This part of Jetting Street and the bridleway which passes through is heavily used both by locals and visitors from the wider region. It is part of a very popular circular walk from the village to Milltown and back.
  - Our third objection comes because our mains water supply runs underneath the bank it is proposed to remove. If the bank is removed the supply would be severed, as it was a couple of months ago when a contractor working was seeking to widen the road.

## **6.0 Relevant Policy and Strategic Context**

### **North East Derbyshire Local Plan (Adopted November 2005)**

- 6.1 The following policies of the Local Plan are material to the determination of this application:

- GS1 Sustainable Development
- GS6 Open Countryside
- NE1 Landscape Character
- NE2 Special Landscape Area
- NE7 Protection of Trees and Hedgerows
- BE1 General Design Principles
- T2 Highway Access and the Impact of New Development
- T9 Car Parking

### **Emerging North East Derbyshire Local Plan (Under Examination)**

- 6.2 The emerging Local Plan (eLP) was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications. It is expected that this consultation will take place in the autumn with Plan adoption early 2021.
- 6.3 The emerging Local Plan is therefore at an advanced stage and should be attributed appropriate weight in decision making.
- 6.4 The following emerging Local Plan policies are material to the determination of this application:

- SS1 Sustainable Development
- SS9 Development in the Countryside
- SDC2 Trees, Woodlands and Hedgerows
- SDC3 Landscape Character
- SDC11 Flood Risk and Drainage
- SDC12 High Quality Design and Place Making

### **Ashover Neighborhood Plan**

- 6.5 The Ashover Neighborhood Plan (ANP) was adopted on 9 February 2018. The following policies should carry weight in any decision:

- AP2 Development Proposals Outside SDL's
- AP11 Design
- AP13 Landscape Character
- AP15 Important Trees and Hedgerows

AP16 Dry Stone Walls  
AP19 Dark Skies

### **National Planning Policy Framework (NPPF)**

- 6.6 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. The main sections are covered in the assessment below.

### **Other Material Planning Considerations**

- 6.7 Successful Places Interim Planning Guidance, adopted December 2013.

## **7.0 Planning Issues**

### **Principle of Development**

- 7.1 The proposed site is located outside of any defined Settlement Development Limit (SDL), falling within a countryside location, designated as a Special Landscape Area.
- 7.2 Local Plan Policy GS1 states that all development proposals will be located within the defined SDL's, unless the development is acceptable in the countryside, or overriding exceptional circumstances are demonstrated.
- 7.3 Policy GS6 states that new development will only be supported where it is in keeping with the character of the countryside and should not represent a prominent intrusion into the countryside.
- 7.4 Policy NE2 states that development will only be permitted where it would not materially detract from the surrounding landscape, not adversely affect the setting of any heritage or wildlife resources.
- 7.5 The Council is now at an advanced stage in the production of a new Local Plan (eLP) 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. The emerging local plan retains the SDL's and the application site remains outside of the SDL for Ashover. Furthermore, the Ashover Neighbourhood Plan does not propose to extend the SDL around Fallgate, and the application site remains outside of any defined SDL.
- 7.6 The eLP policy SS9 and SDC3 seeks to safeguard the countryside from inappropriate development, and states that any development will be required to respect the form, scale and character of the landscape, through careful siting, scale design and use of materials.

- 7.7 The Ashover Parish Neighbourhood Plan (APNP) was made on 26th February 2018, and now carries full weight in the decision process. Policy AP2 is relevant to this development as the policy states that outside of the settlement limits of Ashover, Kelstedge and Littlemore it will be treated as open countryside. Policy AP2 seeks to protect the countryside.
- 7.8 The revised National Planning Policy Framework was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012 & July 2018. 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 supporting economic, social and environmental objectives.
- 7.9 To promote sustainable development, the NPPF advises that these are objectives that should be delivered through Development Plans and the Framework. They are not criteria's to adjudge planning applications against, that is the role of development plan policies which should play an active role in guiding development towards sustainable solutions taking into account local circumstances, to reflect the character, needs and opportunities of each area.
- 7.10 In view of the above, officers consider that the principle of the development is contrary to the aims and objectives of the development plan, and is not considered acceptable in Local Planning Policy terms.

### **Landscape Considerations**

- 7.11 The application site comprises of an area of land made up of a low raised plant bed, with stone wall measuring approximately 300mm high. This sits along the back edge of Jetting Street, which is a narrow multi use, rough surfaced road which serves properties to the south east and up to Demonsdale Farm to the north.
- 7.12 The surrounding area is rural in character, with traditional cottage style properties dotted along Jetting Street, with many open gaps helping to create this informal rural character.
- 7.13 The proposed scheme would involve the removal and excavation of the low raised plant bed and stone wall. The existing hard surfaced area would be extended to form two parking bays (3m deep and 6m in length) positioned side onto the highway. This would be constructed from tarmac to match the highway and a new stone wall would be rebuilt in order to define the parking area using reclaimed materials. All existing shrubs would be lifted and replanted to the north east of the highway.

- 7.14 Whilst the site is relatively well screened from far reaching views, the site is highly visible from public viewpoints along Jetting Street. Jetting Street is relatively low trafficked by vehicles, however the route is well used by ramblers and horse riders. It is considered that the localised impact of the proposed development would be harmful to the distinctive rural character of Jetting Street and the Special Landscape Area.
- 7.15 In view of the above, it is considered that the proposed development would materially detract from and be out of keeping with the special character of the area.

### **Heritage Considerations**

- 7.16 The proposal site is in the vicinity of the course of the former Ashover Light Railway (Derbyshire HER MDR5128) at Milltown/Fallgate. This was a commercial narrow gauge passenger and mineral railway operating between 1925 and 1950 between Ashover and Clay Cross, and was the last commercial narrow gauge passenger railway to be opened in Britain.
- 7.17 The application does not contain a 'heritage impact assessment' or similar in relation to Ashover Light Railway interest and is therefore deficient in terms of NPPF para 189 (establish heritage significance and impact).
- 7.18 The County's Archaeologist was consulted on the proposal and have raised an objection due to the lack of heritage information. It is noted that following these consultee comments, a heritage study has been requested.
- 7.19 In view of the above, it is considered that without the submission of a heritage study the proposed development is harmful to the designated heritage assets.

### **Privacy and Amenity Considerations**

- 7.20 It is not considered that the construction of two parking bays along the back edge of Jetting Street would have an adverse impact upon residential amenity of the nearby neighbouring properties.
- 7.21 Therefore, it is not considered that the scheme should be refused on amenity grounds in this instance.

### **Highway Safety Considerations**

- 7.22 The proposal seeks to provide parking for two vehicles to be used by the occupiers of 1 Overton Lodge, Jetting Street which is opposite the site.
- 7.23 The County Highways Authority was consulted on the proposal and considered the development acceptable in highway terms providing highway safety conditions are included on any decision issued.

- 7.24 In view of the above, it is not considered that the proposed development would lead to a demonstrable harm to highway safety.

### **Ecology and Biodiversity Considerations**

- 7.25 The proposal is seeking to provide an area of hard standing which would necessitate earth removal and levelling along with compact surfacing.
- 7.26 The site is covered by Tree Preservation Order Group G7, however the area subject to the development does not have feature any trees. The submitted plan illustrates that the closest tree to the development would be unaffected. It is therefore, not considered that the scheme should be refused on ecology grounds in this instance.

### **Other Considerations**

- 7.27 The application site is located with within Flood Zone 2 and 3, however there are no structures proposed which will affect flooding. The Environment Agency have raised no objections, as the proposed development is on the very edge of the flood pain and do not believe the development would have any significant impact on the function of the floodplain.
- 7.28 The application site lies within a Development Low Risk Area as defined by the Coal Authority.

## **8.0 Summary and Conclusion**

- 8.1 Having taken into account all the material consideration, it is considered that the proposed development is considered not to be in keeping with the site and its surroundings.
- 8.2 The provision of two parking spaces for occupiers of the host dwelling would provide some benefits to the occupiers however the impact created on the rural lane is to such an extant that the benefit is not overriding of the environmental impact.
- 8.3 The application does not contain a heritage impact assessment of the Ashover Light Railway interest and is therefore deficient in terms of NPPF para 189.
- 8.4 The proposal is therefore in accordance with North East Derbyshire Local Plan, Publication Draft Local Plan and the NPPF.
- 8.5 As such it is considered that the proposed development should be refused.

## **9.0 Recommendation**

### **9.1 REFUSE** Permission for the following reason:-

The site is situated in a countryside location, designated as a Special Landscape Area where policies seek to ensure that proposals do not detract from the character of the landscape. The grassed bank forms a visual, vegetated boundary to Jetting Street and the rural character of the valley of the River Amber. The creation of two hardstanding parking bays would detract from this character and have an adverse impact the proposal and is considered to fail to meet the policy objectives of LP (2005) GS6, NE2, and ANP Policies AP2, AP13, and eLP Policy SS9 and SDC3.



**North East Derbyshire District Council**

**Planning Committee**

**20 October 2020**

<b>Planning Appeals Lodged and Determined</b>
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**Report No PM/10/2020-21/AK of the Planning Manager – Development Management**

This report is public

**Purpose of the Report**

- To inform the Committee of the appeals lodged and determined.

**1 Report Details**

**1.1 Appeals Lodged**

**Mr and Mrs Kavanagh - Construction of detached 2 bed bungalow (revised scheme of 18/00685/FL)(Amended Plans) at 17 Green Lea, Dronfield Woodhouse (19/00988/FL)**

Planning Officer - Aspbury Planning - [Susan.Wraith@ne-derbyshire.gov.uk](mailto:Susan.Wraith@ne-derbyshire.gov.uk)

**1.2 Appeals Allowed**

No Appeals have been allowed.

**1.3 Appeals Dismissed**

No appeals have been dismissed

**1.4 Appeals Withdrawn**

No appeals have been withdrawn

**2 Conclusions and Reasons for Recommendation**

**2.1** N/a.

### **3 Consultation and Equality Impact**

3.1 N/a.

### **4 Alternative Options and Reasons for Rejection**

4.1 N/a.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

N/a.

#### **5.2 Legal Implications including Data Protection**

N/a.

#### **5.3 Human Resources Implications**

N/a.

### **6 Recommendations**

6.1 N/a.

### **7 Decision Information**

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	All

## 8 Document Information

Appendix No	Title
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Katie Spelman	217172