

Public Document Pack



**North East
Derbyshire**
District Council

Updated Agenda

Item 3 – Minutes of the last meeting

Item 6 – Late Representations/Summary Update Report

Item 7 – Replacement Planning Appeals Report

Contact: Alan Maher

Tel: 01246 217391

Email: alan.maher@ne-derbyshire.gov.uk

Date: Monday, 23 May 2022

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 31 May 2022 at 2.00 pm in the Council Chamber**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.

The meeting will also be live streamed from the Council's website on its You Tube Channel. Click on the following link if you want to view the meeting:

[North East Derbyshire District Council - YouTube](#)

Yours sincerely

Assistant Director of Governance and Monitoring Officer

Members of the Committee

Councillor William Armitage
Councillor Andrew Cooper
Councillor Peter Elliott
Councillor Mark Foster
Councillor Roger Hall
Councillor David Hancock
Councillor Lee Hartshorne

Councillor Maggie Jones
Councillor Heather Liggett
Councillor Alan Powell
Councillor Jacqueline Ridgway
Councillor Kathy Rouse
Councillor Diana Ruff - Chair

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 the Last Meeting: NOW PUBLISHED (Pages 4 - 7)

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on 17 May 2022

4 NED/22/00198/FL - STRETTON (Pages 8 - 17)

Section 73 application pursuant of 18/00801/FL to vary condition 2 (approved plans) at 'Erzamine', Highstairs Lane, Stretton

(Planning Manager – Development Management)

5 NED/22/00244/FL - ASHOVER (Pages 18 - 25)

Retrospective application for garage with store at 'Croftonvale', Alton Lane, Littlemoor, Ashover

(Planning Manager – Development Management)

6 Late Representations - Summary Update Report: NOW PUBLISHED (Pages 26 - 32)

(Planning Manager – Development Management)

7 Planning Appeals - Lodged and Determined: NEW DOCUMENT PUBLISHED (Pages 33 - 35)

(Planning Manager – Development Management)

Please note that by error the wrong document for this Item was originally published. The agenda has now been updated to include the correct report.

8 Planning Enforcement Service Progress Report (Pages 36 - 42)

(Planning Manager – Development Management)

9 Matters of Urgency

To consider any other matter which the Chair is of the opinion should be

considered as a matter of urgency.

We speak your language

Polish

Mówimy Twoim językiem

Romanian

Vorbim limba dumneavoastră

Urdu

ہم آپ کی زبان بولتے ہیں

Chinese

我们会说你的语言



North East
Derbyshire
District Council



If you require this agenda in **large print** or another format
please call us on **01246 217753** Text No: 07800 00 24 25

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, 17 MAY 2022

Present:

Councillor Alan Powell (Vice-Chair in the Chair)

Councillor William Armitage
Councillor Andrew Cooper
Councillor Mark Foster
Councillor Lee Hartshorne
Councillor Maggie Jones
Councillor Kathy Rouse

Councillor Nigel Barker
Councillor Peter Elliott
Councillor Roger Hall
Councillor David Hancock
Councillor Heather Liggett

Also Present:

R Purcell	Assistant Director of Planning
A Kirkham	Planning Manager - Development Management
A Lockett	Senior Planning Officer
J Owen	Chartered Legal Executive
A Bond	Governance Officer
M E Derbyshire	Members ICT & Training Officer
A Maher	Interim Governance Manager

PLA/ Apologies for Absence and Substitutions

92/2

1-22 Apologies were received from Councillor D Ruff. Apologies were also received from Councillor J Ridgway, who was substituted by Councillor N Barker.

PLA/ Declarations of Interest

93/2

1-22 There were no Declarations of Interest.

PLA/ Minutes of Last Meeting

94/2

1-22 The minutes of the meeting held on Tuesday 26 April 2022 were approved as a true record.

PLA/ NED/18/01003/OL - KILLAMARSH

95/2

1-22 The report to Committee explained that an outline Application had been submitted for the erection of 397 dwellings on land to the south-west of Upperthorpe Road, Killamarsh. The Application had been referred to Committee at the request of Ward Councillor S Clough, who had raised concerns about it.

Planning Committee was recommended to approve the Application, subject to the conditions set out in the report.

The report to Committee explained why Members were asked to approve the recommendations. Officers felt that the Development would be acceptable and sustainable in planning terms. The site had been allocated for residential

development under the Local Plan. Subject to final determination of the potential highway mitigation and the archaeological assessment of the Application, there were no technical reasons why the Development should not proceed. The full infrastructure mitigation package had been generally agreed with the Applicant and a Section 106 Agreement would be completed prior to the final determination of the Application.

Before Members discussed the Application those registered to speak were asked to address the Committee. L Rowley MP, Ward Councillor S Clough, Ward Councillor A Platts, Councillor C Renwick (in her capacity as Derbyshire County Council for the Division covering the area), W Tinley, K Whitworth, K Wood, P Johnson, K Bone, M Evans, K Warnes, A Whitaker, B Clamp, S Thompson, C Curzon, C Lacey, D Grzona, B Mahoney and E Thompson objected to the Application. The Applicant, J Neville, spoke in support of it.

Committee considered the Application. It took into account the location of the site, primarily within the Settlement Development Limits for Killamarsh, with a smaller area located within the Green Belt. It considered Local Plan Policies SS1, SS2 and SP4, which seek to focus housing development on Killamarsh and the District's three other main towns. Committee took into account Local Plan Policy SS10, on appropriate development outside of settlement limits and within the Green Belt.

Committee considered whether the Development would provide sufficient affordable housing, in line with Local Plan Policy LC4. It considered the provision of urban green space, as required by Local Plan Policy ID10. It also took into account the requirement of Policy LC1 that compensatory improvements to the environmental quality / accessibility should be made, where appropriate to offset the effect of removing land from the Green Belt.

Members discussed the Application. They reflected on the concerns raised about the proposed number of properties and how this would be significantly greater than that identified in the Local Plan. Members heard how the Local Plan figure was only indicative and was not intended to set a maximum limit for development. Rather, the number of properties that could be built on the site would depend on their size and design. It was explained that subject to this being agreed in advance, it would be possible to accommodate the proposed 397 units there.

Some Members expressed concern about the scale of the proposed development. In particular, they highlighted the possible burden which the large development would place on the social and physical infrastructure of the town. Specific concerns were raised about the limited access to public transport and whether because of the topography residents of the new properties would have to rely on cars in order to visit the facilities in Killamarsh Town Centre, and so increase traffic on surrounding roads.

Some Members raised concerns about the impact on the local road network and in particular, to the traffic management arrangements on the access and egress from the Development. They raised concerns that the Development might result in an unsustainable increase in the volume of traffic. Committee also discussed the proposed remedial measures and considered whether these would address adequately the concerns which had been raised.

Some Members raised concern about the proposal to construct 'Attenuation Ponds' to hold water on the part of the site within the Green Belt. They reflected on whether this would be an appropriate development for the location. Concern was also raised possible flood risks. Some Members sought clarification about possible land contamination on the site and the concerns which had been raised about air quality. In this context, Committee discussed the legacy of the coal mining industry and the safety concerns about subsidence and gas emissions which had been raised. Committee also considered the possible impact of the development on the heritage assets of the area.

At the conclusion of the discussion, Councillor M Foster and Councillor W Armitage moved and seconded a motion to reject the application, contrary to officer recommendations. The motion was put to the vote and was agreed.

RESOLVED -

That the Application be refused, contrary to officer recommendations.

Reasons

1. The application seeks consent for 397 dwellings. The North East Derbyshire Local Plan allocates the site to provide approximately 330 within the Plan Period. The figure proposed exceeds that set out in the Local Plan and so the application is unacceptable and contrary to policy LC1 of the North East Derbyshire Local Plan. density
2. The site extends beyond the Settlement Development Limit for Killamarsh into an area located within the Green Belt. Whilst only attenuation ponds and ancillary development are shown within this area on the indicative layout no details of the nature or scale of works necessary to form them has been submitted. Therefore, it is concluded that without information to the contrary the application would fail to preserve the openness of the Green Belt and conflict with its purposes. There are no very special circumstances identified that would override this harm and so the application is contrary to policies SS10 and ID10 of the North East Derbyshire Local Plan and the policies of the National Planning Policy Framework.
3. The site has limited access to public transport. The application therefore is proposed in a location that does not provide good access to frequent public transport services. It is therefore, contrary to policy SDC12 (h) of the North East Derbyshire Local Plan.
4. The level of development proposed is of such a scale that the level of traffic resulting would not be sustainable and the cumulative impact on the road network severe contrary to policy ID3 of the North East Derbyshire Local Plan and the NPPF.
5. The information submitted has failed to demonstrate that the coal mining legacy on the site has been properly addressed, one mine shaft remains

unfound, and can be properly mitigated. As such, the site remains contaminated and inherently unstable and its development would be contrary to North East Derbyshire Local Plan Policy SDC14.

6. Development should ensure that suitable measures are put in place to mitigate its impacts. In this case, insufficient mitigation is proposed to offset the development's impact on local schools and doctors contrary to policy ID1 of the North East Derbyshire Local Plan.
7. The development proposed would result in the re-alignment of footpaths that cross the site and a deterioration in their quality. Any new routes would not be as convenient or attractive and have an unacceptable impact on the environment contrary to policy ID8 of the North East Derbyshire Local Plan.

PLA/ **Matters of Urgency**
96/2
1-22 None.

PLANNING COMMITTEE – 31 MAY 2022

REFERENCE NUMBER: 22/00198/FL Application Expiry Date: 11 May 2022
Application Type: Full Planning Permission

Proposal Description: Section 73 application pursuant of 18/00801/FL to vary condition 2 (approved plans)

At: Erzamine Highstairs Lane Stretton Alfreton DE55 6FD

For: Mr Joseph Rowles

Third Party Reps: 1 **Parish:** Stretton Parish Council
Ward Name: Pilsley And Morton Ward

Author of Report: Case Officer Aspbury Planning Ltd **Date of Report:** 17.05.2022

MAIN RECOMMENDATION: GRANT



1.0 Reason for Report

- 1.1 The application has been called in by Councillor Armitage to consider the impact upon the neighbour and landscape due to its prominent position. The Committee previously approved the application, and the impacts needs to be reassessed

2.0 Proposal and Background

- 2.1 The proposal has been submitted as a s73 application to substitute the approved plans under planning reference 18/00801/FL with amended plans relocating plot 1 further forward and to the west of its approved position, taking it closer to Highstairs Lane and plot 2.

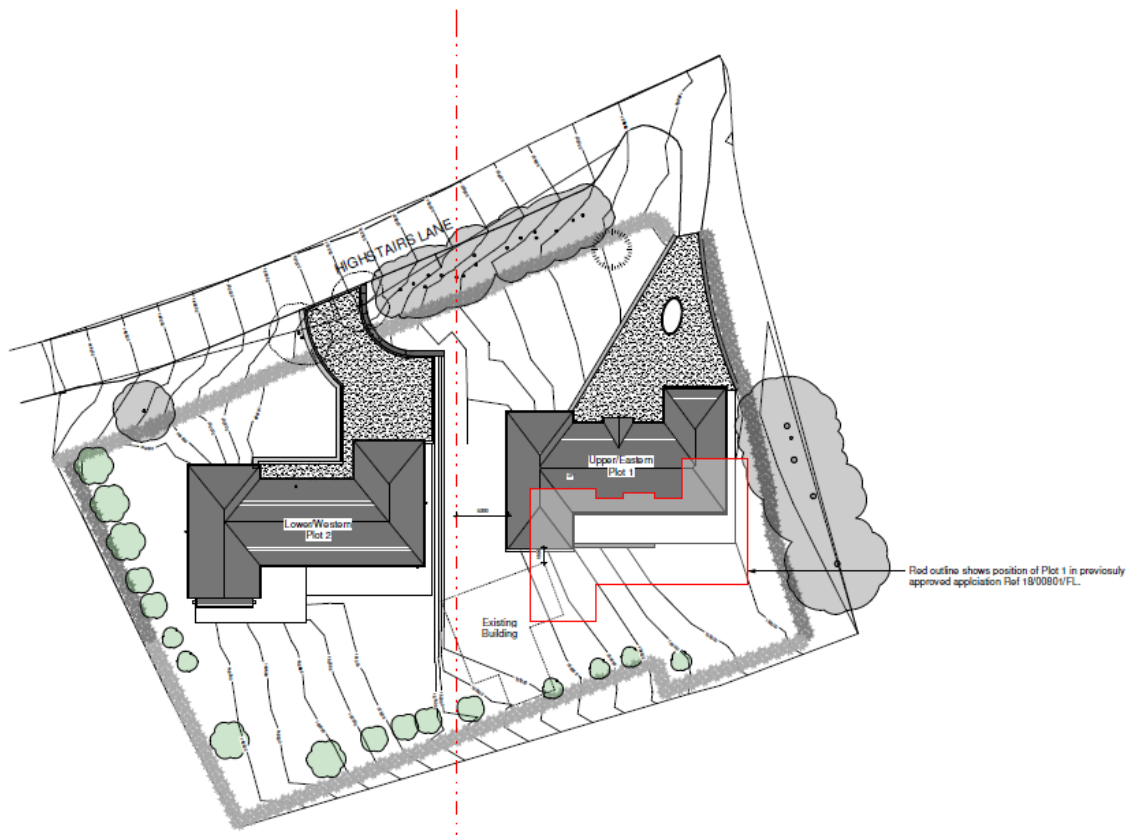


Fig 1: Site Plan showing revised position of plot 1 with original position outlined in red.

- 2.2 The dwelling (plot 1) as proposed would still be sited west to east across the site, exploiting the sloping topography and maintain a staggered step back from Highstairs Lane but pulled forward of plot 2 (as built).
- 2.3 There are minor changes to the external appearance with the addition of a window to serve an ensuite on the west elevation. The scale, massing and

construction materials remain unaltered. There are minor changes to the internal layout, swapping the positions of the upper floor bedroom and kitchen and reducing the floor space on the lower ground floor. The property remains as a three bedroom property.

- 2.4 It is proposed to construct the dwellings using natural stone with elements of weather board cladding with a slate finish roofing material. Windows would be constructed of powder coated aluminium.
- 2.5 The application site relates to Plot 1 of an approved scheme for two dwellings on land adjacent to a bungalow known as Erzamine. Plot 2 has been built and is occupied and Erzamine bungalow is also occupied. The site lies on the edge of the settlement boundary for Stretton, falling outside of the Settlement Development Limit boundary (SDL). Highstairs Lane abuts the northern boundary of the site, which is defined by a mature hedgerow.
- 2.6 There is a hedgerow along the west boundary that has been removed. The south boundary is intact as is the boundary to the east separating the development plot from the neighbouring property. The topography falls steeply across the site north to south and from Highstairs Lane the levels drop approximately 4.5m towards the south west boundary.

3.0 Relevant Planning History

- 3.1 16/00433/OL - Outline application with all matters reserved for one additional dwellings (Amended Plan/Amended Title) Status: Conditionally Approved.
- 3.2 18/00117/FL - Demolition of the existing dwelling and garage and the construction of two new detached dwellings with integral garages, creating new vehicular access on to Highstairs Lane (Amended Plans) Status: Refused on grounds of the development being incongruous in scale, massing, design and orientation, failing to be in keeping with, and representing a prominent intrusion into the countryside. Furthermore the replacement would be materially larger than the existing dwelling to be replaced having a greater impact upon setting.
- 3.3 18/00801/FL - Demolition of the existing dwelling and garage and the construction of two new detached dwellings with integral garages, creating one new vehicular access on to Highstairs Lane (Revised scheme of 18/00117/FL). Conditionally approved
- 3.4 19/00149/DISCON – Discharge of Conditions 3 (Materials), Condition 4 (Site Investigation, Condition 5 (Contaminated Land Desk Study), Condition

6 (Contaminated Land Remediation Scheme), Condition 8 (Ground Levels), Condition 9 (Landscaping), Condition 11 (Temporary Access), Condition 12 (Site Storage), Condition 18 (Water Discharge), Condition 19 (Boundary Treatments) and Condition 20 (Surface Water and Foul Drainage) pursuant of 18/00117/DISCON.

4.0 Consultation Responses

- 4.1 Highways Authority: No objection to the amendment of plot 1.
- 4.2 Coal Authority: No objection subject to conditions.
- 4.3 Environment Health: No objection - The proposed development site is located in an area with a coal mining legacy and there is the potential for shallow workings to be present which could be a source of contamination. In addition historical mapping would indicate there were opencast workings within the vicinity of the site. Therefore, given the sensitivity of the proposed development it is recommended that conditions are attached to any permission granted for site investigations and mitigation if required.
- 4.4 Severn Trent Water Authority: No objection.
- 4.5 Stretton Parish Council have not commented.

5.0 Representations

- 5.1 The nearby neighbours were consulted by letter and a site notice posted outside of the site on the 25th March 2022. As a result one objection from an interested party has been received. The objection considers that the amended location would have an impact upon their enjoyment of their property as the plot moves closer to their property by 4 metres. Their views over the Amber Valley will be further impacted upon spoiling the outlook.
- 5.2 The application has been called in by Councillor Armitage to consider the impact upon the neighbour and landscape due to its prominent position. The Committee previously approved the application, and the impacts needs to be reassessed.

6.0 Relevant Policy and Strategic Context

- 6.1 The Development Plan comprises of the North East Derbyshire Local Plan 2014-2034. There is no Neighbourhood Plan for Stretton.
- 6.2 North East Derbyshire District Local Plan
 - SS1 - Sustainable Development

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

6.3 National Planning Policy Framework

The revised National Planning Policy Framework was published on 20 July 2021 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, 2018 and 2019. 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 support economic, social and environmental objectives.

- 6.4 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.

- 6.5 Chapters of relevance are:

Chapter 2. Achieving sustainable development
 Chapter 5. Delivering a sufficient supply of homes
 Chapter 9. Promoting sustainable transport
 Chapter 12. Achieving well-designed places
 Chapter 15. Conserving and enhancing the natural environment

6.6 Other SPD's

- Successful Places Interim Design Guide

7.0 **Planning Issues**

Principle

- 7.1 The site lies outside of the Settlement Development Limits (SDL) for Stretton. Under the policies set out in Local Plan (2014-2034) policies SS1, SS2, SS9, SDC3 and SDC12. The principles of residential development outside of the settlements has been accepted with the grant of planning permission under planning reference 18/00801/FL. Plot 2 of that approval has been built and therefore the permission is extant.
- 7.2 The proposal lies within the designated open countryside. Local Plan policy SS9 and SDC3 seeks to ensure that proposals outside of defined settlements are in keeping with the countryside location, and do not represent a prominent intrusion. In regard to design Local Plan policy SDC12 seeks to ensure that the design, scale and massing of development is in keeping with the surrounding area.
- 7.3 The proposal would still be of the same, design, scale and massing but would be presented further towards Highstairs Lane, increasing the rear garden size. It will still be highly visible within the open countryside where the principle was accepted under planning approval 18/00801/FL.
- 7.4 The main consideration is the impact moving the dwelling further forward on the site has to the character of the area and the residential amenities of the neighbouring properties to the east.

Impact upon the Character of the Area.

- 7.5 It is not considered that moving the dwelling further towards the north would have a greater impact upon the character of the area. The design, scale and massing remains the same as approved. The boundary treatment and landscaping has previously been agreed by discharge of condition and no changes are proposed.

Impact upon Residential Amenity

- 7.6 The nearest residents are located to the east. Moorfields is a dormer style dwelling and has the rear elevation facing towards the proposal site from an elevated location. It contains a small dormer window at first floor and windows at ground floor. A mature hedge forms the boundary and screens the ground floor windows from view. Highfield House is a bungalow which has its rear elevation facing onto the application site and is set back off the boundary.

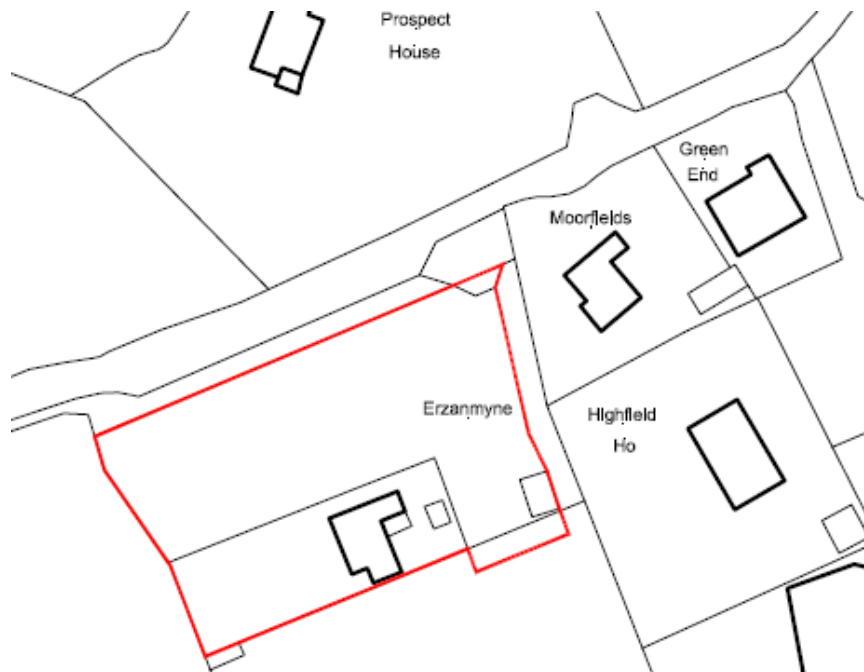


Fig 2: Extract of location plan showing relationship with Moorfields and Highfield House

- 7.7 Moving Plot 1 further forward on site by approximately 6 metres would result in the proposed dwelling being positioned closer to the rear elevation of Moorfields; however, there will still be a staggered arrangement and no windows contained in its east gable end. The existing hedgerow is also to remain in place. The outlook from Highfield House will improve with views over the rear garden of both plots. Moorfields on the other hand would be altered to a degree as plot 1's roof would be visible from acute angles when looking out of the rear elevation windows. Plot 1 is of single storey height and would be positioned on a similar building line to Plot 2 as built. It is not considered that the residential amenities would be so severely impacted as to warrant the refusal of the amended siting.
- 7.8 The revised siting also moves the dwelling away from the east boundary by approximately 2 metres, taking it closer to plot 2. Windows have been approved in the western gable and one more is now proposed. Plot 2 contains no windows in the east gable and therefore it is concluded that there would be no greater impact as a result of the revised siting.
- 7.9 There are further dwellings to the north of the site which sit in extensive plots with the dwellings set at a considerable distance from Highstairs Lane. There is extensive tree coverage in the area and the dwellings are not visible from the site.
- 7.10 For these reasons it is considered that there would not be any detrimental loss of residential privacy to existing residents and the revised siting of plot

1 would not have a greater impact to warrant a refusal to vary the plans as approved under 18/00801/FL. The proposal is therefore considered to accord with the North East Derbyshire Local Plan policies SS9 and SDC12.

Highway Safety

- 7.11 There are no changes proposed to the access arrangements and the Highways Authority have no objection to the revised siting. Plot 1 will utilise the existing access for Erzamine from Highstairs Lane. Parking is still sufficient to the front of the property and the turning area is not reduced through shorting of the front amenity area.

8.0 Summary and Conclusion

- 8.1 The proposal seeks to repositioned plot 1 further forward on to increase the rear garden area and closer to plot 2. The design, scale and massing remain unaffected by the change and there are no reasons to revisit the principle of development in this countryside location given the extant planning permission (18/00801/FL).
- 8.2 Whilst moving the dwelling closer to the neighbouring properties the scale and massing ensures that there would not be an unduly significant detrimental impact upon the occupant's enjoyment of the dwellings. Sufficient space will exist between the dwellings and no overlooking is created, as there would be no windows inserted in the east elevation and PD rights can be removed.

9.0 Recommendation

- 9.1 GRANT Full Planning Permission subject to the following conditions, with the precise wording delegated to the Planning Manager.

Conditions

1. The development hereby approved shall be carried out in accordance with the submitted plans, unless otherwise specifically agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any other condition in this decision notice.

Reason: For clarity and the avoidance of doubt.

2. The dwelling (plot 1) shall be built using materials as formally agreed under discharge of conditions application 19/00149/DISCON.

Reason: In the interests of the appearance of the area and in accordance with policies SS9 and SDC12 of the North East Derbyshire Local Plan.

3. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: In the interest of ensuring coal mining legacy is fully explored and to comply with guidance within the NPPF paragraph 183.

4. All planting, seeding or turfing in the approved scheme of landscaping discharged under reference 19/00149/DISCON shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the appearance of the area and in accordance with policies SS9 and SDC3 of the North East Derbyshire Local Plan

5. The boundary treatments as approved under discharge of conditions application 19/00149/DISCON shall be completed prior to first occupation of plot 1 and shall be maintained as approved thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies SS9 and SDC3 of the North East Derbyshire Local Plan

6. The temporary access as approved under discharge of conditions application 19/00149/DISCON shall be retained in accordance with the approved details throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: In the interest of Highway Safety and in accordance with policy ID3 of the North East Derbyshire Local Plan.

7. 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 the details approved under discharge of conditions application 19/00149/DISCON. Once implemented

the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interest of the appearance of the area and in accordance with policies SS9 and SDC3 of the North East Derbyshire Local Plan.

8. There shall be no gates or barriers within 5 metres of the nearside highway boundary and any gates shall be inward opening.

Reason: In the interest of highway safety and in accordance with policy ID3 of the North East Derbyshire Local Plan. .

9. Before the dwelling is first brought into use, the area shown on the approved plans as reserved for the parking, garaging, circulation and standing of vehicles, shall be provided in accordance with the approved details and shall be retained as such thereafter. The parking and manoeuvring areas shall not be used for any purpose other than the parking and manoeuvring of vehicles.

10. Reason: In the interests of highway safety and in accordance with Policies SS1, SS9 and SDC12 of the North East Derbyshire Local Plan.

11. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), no side facing windows or glazed doors shall be installed in the east elevation.

Reason: To protect the amenity of adjacent residential occupiers in accordance with Policies SDC12 of the North East Derbyshire Local Plan.

PLANNING COMMITTEE – 31 MAY 2022

Reference Number: 22/00244/FLH

Application expiry: 15/06/22

Application Type: Householder

Proposal Description: Retrospective application for garage with store

At: Croftonvale, Alton Lane, Littlemoor, Ashover, Chesterfield, S45 0BE

For: Mr Day

Third Party Reps: 2 objections, 1 supporting comment

Parish: Ashover

Ward: Ashover

Report Author: Denise Knipe

Date of Report: May 2022

MAIN RECOMMENDATION: Grant unconditionally.

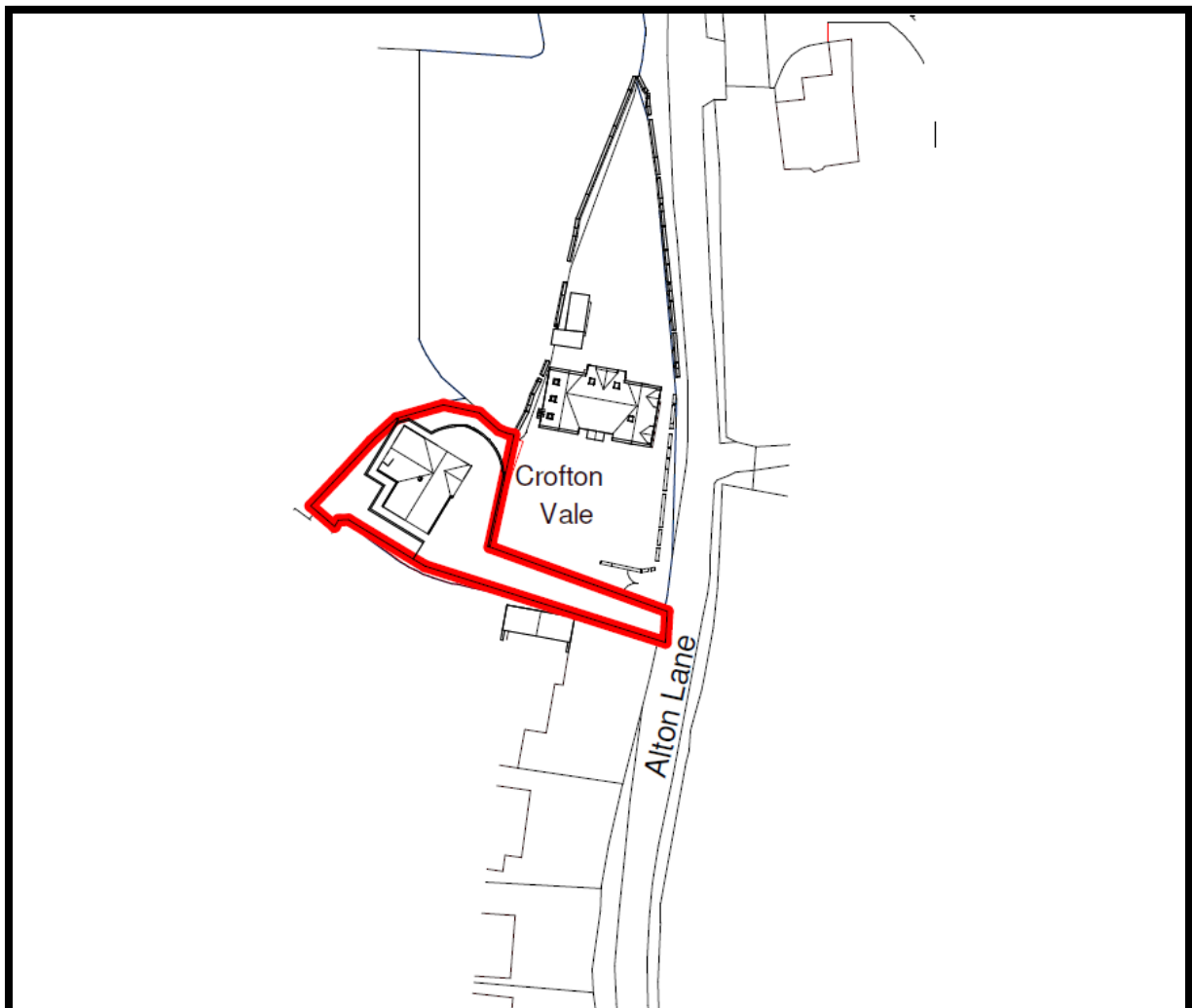


Figure 1: Site location plan

1.0 Reason for Report

- 1.1 Cllr Armitage requested that the application be considered by Planning Committee so that members can consider the impact upon the neighbouring property and loss of stone walls. Supports the comments received from the Parish Council.

2.0 Proposal and Background

Site Description

- 2.1 The application site is located to the west of Alton Lane, which is within Littlemoor which is located in open countryside outside any defined Settlement Development Limit.
- 2.2 Croftonvale is a stone bungalow which was granted planning permission in 2019 under planning reference 19/00413/FL. The garage building, subject of this application, is positioned in the northwest corner of the site, between the boundary and bungalow.
- 2.3 To the east is a dwelling under construction and to the west is Oakroyd a detached dwelling. To the north and west is agricultural land. The Application site sits on a lower topography than the field and a retaining wall runs along the north boundary and a stone field boundary wall set away from the retaining wall. The boundary to Oakroyd is a stone wall with fencing above.

Proposal

- 2.4 The proposal has been submitted to regularise the detached garage building and is therefore seeking retrospective planning permission.
- 2.5 The garage has been constructed from stone to match the host bungalow and contains a store room above the garage, accessed by external stairs. It has an irregular plan form and dog legs to the rear wrapping partly round the northeast curtilage of Oakroyd. The proposed site plan can be seen in Figure 2 below.

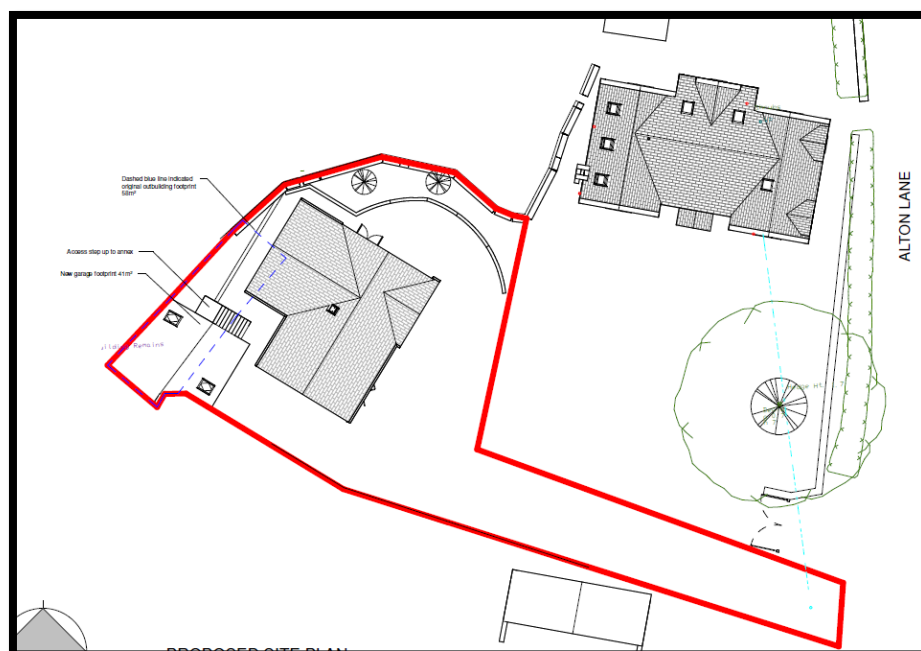


Figure 2: Proposed site plan with garage in south west corner of site

- 2.6 The garage building (seen below in Figure 3) has been cut into the site and a stone boundary wall built, retaining the open land to the north. The building appears as a single storey building when viewed from the open countryside to the west. The access stairs are on the east elevation. There is a rooflight on the front roof slope and one on the rear. There are no other window openings. The garage as built occupies a footprint of 41 square metres.

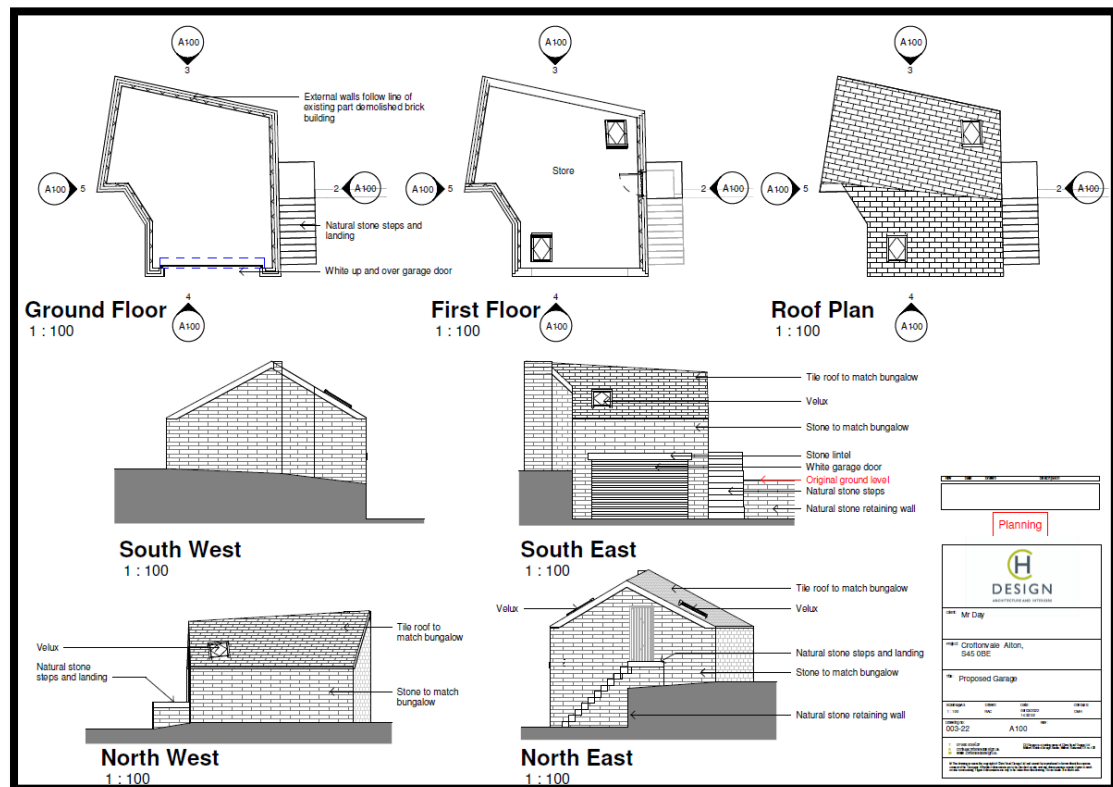


Figure 3: Proposed floor and elevation plans

- 2.7 The garage building replaces a block of dilapidated outbuildings which is stated within the planning statement to have collectively, occupied a footprint of 58 square meters. There are photographs appended to the statement which shows parts of the gable still standing which appear to be of a two story height.
- 2.8 Objections have been received which challenge the legal ownership of the northwest corner which wraps around the curtilage. Whilst ownership matters are not material planning considerations; they remain civil matters, the applicant has provided the title deeds which shows that they are the legal owners and for the purpose of the planning application it is considered that the correct ownership certificates have been provided and the correct procedural matters have been followed. Any boundary dispute remains a civil matter and cannot be resolved through the planning system.

Amendments

- 2.9 None.

3.0 Relevant Planning History

- 3.1 19/00413/FL - Construction of new bungalow approved 11th July 2019.

4.0 Consultation Responses

- 4.1 **Ashover Parish Council** object to the loss of stone boundary walls and advises that they do not support retrospective planning proposals.

[Officer Note: Retrospective planning applications are part of the Town and Country Planning Act and as a planning application is to be considered against the Development Plan, in this case the Local Plan and Ashover Neighbourhood Plan, for the area and considered on its own planning merits.]

- 4.2 **Ward Councillor Armitage** supports the Parish Council and considers that the ownership issues need to be established before a decision can be reached.

[Officer Note: Ownership and boundary disputes are not matters that can be taken into account when considering a planning application. These remain civil matters and fall outside of the planning considerations. The Council has a duty to establish if the correct ownership certificates have been received and on this matter the Officer is satisfied with the response received from the applicant and the correct certification has been issued.]

- 4.3 **Highways Authority:** No comments received.

5.0 Representations

- 5.1 The adjoining neighbours were consulted by letter and a site notice posted on the gate to the property on the 25th March 2022. As a result, two objections from interested parties have been received, one is a joint executor of the late Kathleen Stevenson of which 50% of Oakroyd estate is included. A letter of support from the occupiers of the neighbouring property, Oakroyd, also joint executors of the estate has been received. A summary of the responses received are below provided below, the full copies can be viewed on the Councils website.

- 5.2 The **objection** is summarised below:

- The garage is encroaching on land that is not in the ownership of the applicants.
- It is overbearing and dominant and larger than the previous outbuildings.
- The velux window causing loss of privacy to Oakroyd.
- The finish of the new boundary wall is unsightly from the garden of Oakroyd and has an unfinished appearance.
- Objects to the loss of the stone wall dividing the gardens Croftonvale/Oakroyd.
- The boundary hedge approved with the replacement bungalow can no longer be planted as the building is on the boundary.

- 5.3 The letter of **comments/support** has been written by the son of the owner of Oakroyd on behalf of his father and sister – joint executors of the estate. The applicant and owner/occupiers have been in discussions prior to the works being carried out.

- It considers that the use of breeze block on part of the side wall of the garage building is unsightly and the resolution would be to build in stone.
- They have no objection to the scale of the building on the boundary and it is more visually acceptable than the previous old buildings. As the foliage grows it will screen the building.
- The velux window cannot be seen from Oakroyd and has no privacy issues.

- Whilst there appears to be some encroachment, less than a meter squared, the parties are satisfied that this does not detrimentally impact the property.
- The rebuilding of the boundary wall has been a gain of land along the whole of the boundary wall in Oakroyd's favour of approx. 10-12 inches.
- The applicants have already agreed to stone clad the breeze block wall on Oakroyd side and install a fence on the back of the fence already installed.
- Lost planting has been agreed to be replanted by the Applicant.

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan 2014-2034 (LP)

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

SS1 Sustainable Development
 SS9 Development in the Countryside
 LC5 Residential Extensions
 SDC3 Landscape Character
 SDC12 High Quality Design and Place making

Ashover Neighbourhood Plan (ANP) adopted February 2018

- 6.2 The following policies of the ANP are material to the determination of this application:

AP2 Development Proposals Outside the Limits to Development
 AP11 Design
 AP13 Landscape Character
 AP16 Dry Stone Walls

National Planning Policy Framework (NPPF)

- 6.3 The revised National Planning Policy Framework (NPPF) was published on 20 July 2021 and sets out the Government's planning policies for England and how these are expected to be applied. This revised NPPF replaces the previous NPPF published in July 2012, 2018 and 2019. 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 support economic, social and environmental objectives.
- 6.4 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 to adjudicate 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.
- 6.5 Chapters of relevance to this application are:
 Chapter 2. Achieving sustainable development
 Chapter 12. Achieving well-designed places

Other Material Planning Considerations

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

7.0 PLANNING ASSESSMENT

Principle of Development

- 7.1 The site lies outside any defined Settlement Development Limits (SDL) in open countryside. Local Plan policy SS9 of the adopted Local Plan supports development where it respects the form, scale and character of the landscape, through careful siting, scale, design and use of materials.
- 7.2 Policy LC5 allows for proposals which respect the scale, proportions, materials and overall design and character of the existing property; do not harm the street scene or local area, including the loss of characteristic boundary features and landscaping; avoid significant loss of privacy and amenity for the residents of neighbouring properties; and do not significantly and demonstrably harm highway safety.
- 7.3 Policy SDC3 states that proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity. The site falls into a Secondary Area of Multiple Environmental Sensitivity (AMES) with land to the west within a Primary AMES. Due consideration should be made to proposals in these areas. Any development should be informed by, and be sympathetic to, these distinctive areas.
- 7.4 Policy SDC12 requires that all new development should be of a high quality design and make a positive contribution to the quality of the local environment.
- 7.5 Ashover Neighbourhood Policy AP2 seeks to protect the countryside setting of Littlemoor. Development will not be seriously intrusive in the countryside and will respect the character of existing settlements and their setting.
- 7.6 Policy AP13 also states that development proposals are required to demonstrate that they respect the distinctive landscape character of the area as identified in the Derbyshire Peak Fringe and Lower Derwent Landscape Character Area. The impact of any development on the landscape will be assessed accordingly as not to cause an unacceptable visual intrusion, adversely affect landscape elements, field boundaries or settlement patterns, introduce or remove incongruous landscape elements and not disturb or detract from the visual amenity and tranquillity of the area.

Impact upon the Character of the Area

- 7.7 The garage building has been built at the top of the site, adjacent the bungalow. It is well set back from the street and therefore, has little impact upon the character of the streetscene. The construction materials match those of the bungalow.

- 7.8 The rear of the building has been cut into the landscape which raises south to north. A retaining wall has been built and a new stone wall erected in the field. The garage building is read in context of the built form of Littlemoor and does not represent an incongruous feature in the landscape.
- 7.9 The garage building as built does not have a traditional square/oblong footprint due to encompassing land that previously was not included in the curtilage of Croftonvale. The land occupied a small outbuild attached to outbuildings within the curtilage of Croftonvale and it was purchased by the Applicant and incorporated into the site now occupied by the garage/store building.
- 7.10 The ownership and encroachment issues have been raised by objectors and is not a material planning consideration. The main focus is how the building affects the character of the area in accordance with Local Plan Policies SS9, SDC3 and SDC12 and Neighbourhood Plan Policies AP2 and AP13.
- 7.11 In considering the retrospective proposal, the garage store has been built to an acceptable quality and due to siting, massing and construction materials it is concluded by Officers that it does not have a detrimental impact on the character of the site and the surrounding countryside, which is a Secondary Area of Multiple Environmental Sensitivity.
- 7.12 The Parish Council and Ward Councillor have raised objections to the loss of stone wall which divided the two gardens. Ashover Neighbourhood Plan Policy AP16 advises that development proposals that affect a dry stone wall should be designed to retain or enhance it. It supports proposals for new dry stone walls that make a positive contribution to the network of dry stone walls across the Parish.
- 7.13 The boundary wall was within a domestic setting and outside of any conservation area and its loss could not be resisted. However, a new stone wall has been constructed to the rear of the garage building separating the site from the open countryside. It has been built to a high standard and is considered to comply with the Ashover Neighbourhood Plan Policy AP16.

Impact upon Residential Amenity

- 7.14 The nearest residents are located to the south east, at Oakroyd. The garage building sits at the top of the garden on the far western corner of the Application site. Oakroyd is some distance away from the garage building, and whilst the west elevation forms the boundary treatment (given the former outbuilding has been demolished) it is only viewed from parts of the garden area due to the mature landscaping. There are no windows on the side elevation and no overlooking is created by the rooflight on the front roof slope. Whilst interested parties have a differing view to one another, it is in the Officers opinion that the building does not cause a significant adverse impact upon privacy and amenity to neighbouring residents.
- 7.15 The new boundary wall and fence is yet to be appropriately finished on the neighbours' side and an agreement has been reached outside of the planning application. Similar replacement planting has also been agreed. Officers do not consider that these matters are required to be controlled by way of conditions on any decision.

- 7.16 The proposal is therefore considered to accord with the North East Derbyshire Local Plan policies SS9 and SDC12 and Ashover Neighbourhood Plan Policy AP2 and AP11.

Highway Safety

- 7.17 There are no changes proposed to the access arrangements or parking situation. The Highways Authority have raised no comments.

8.0 Summary and Conclusion

- 8.1 The proposal seeks retrospective planning permission for the retention of the garage building to be used by the occupiers of Crotonvale. Retrospective planning applications are required to be considered in respect of the policies of the Development Plan and determined on their own merits. Where harm is identified the application should be refused.
- 8.2 In the case of this retrospective application, it is not considered that the building causes any adverse or significant impact upon the character of the area or residential amenity of neighbouring properties and there are no reasons to depart from the Development Plan when taken as a whole. Accordingly, it is recommended that planning permission is **granted** unconditionally.

9.0 Recommendation

- 9.1 That Planning Permission is **granted** unconditionally.

Planning Committee 31st May 2022

SUMMARY OF LATE COMMENTS/REPORT UPDATE

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

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

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

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

PARISH: ASHOVER

APPLICATION: 22/00244/FLH

CASE OFFICER: Adrian Kirkham

1. SOURCE OF COMMENTS: Mrs Stevenson

DATE RECEIVED: 23.05.2022

SUMMARY:

1) Character and materials:

- Dry stone outbuilding and dry stone boundary wall demolished
- Breeze block used on South West elevation of Garage/Store and for replacement boundary wall

In building the Garage/Store, not only was a derelict red brick agricultural building and breeze block/rendered stables demolished, but so was a derelict dry stone outbuilding. Since the Garage/Store is now positioned further forward than the original outbuildings, a dry stone boundary wall between Croftonvale/Oakroyd was also demolished. The existing material of this dry stone outbuilding is not mentioned in the 22/00244/FLH planning application form, nor is it mentioned in the planning statement.

Breeze block has been used as a material for both the South West elevation of the Garage/Store that faces Oakroyd and the replacement boundary wall between Croftonvale/Oakroyd. This is not in keeping with the character of the area. All

retaining walls in the Oakroyd back garden are stone, as evident in the images submitted in both the Sanderson and Stevenson representations.

On the submitted plans, the three elevations on the South East, North West and North East are labelled with arrows pointing towards the walls that state 'Stone to match bungalow', 'Natural stone retaining wall' and 'Natural stone steps'. Whereas there are no such labels on the South West elevation.

Considering that the existing building on the Oakroyd boundary and the boundary walls were previously dry stone, it is not unreasonable to expect that the elevations facing Oakroyd for any replacement building and boundary walls would also be stone. The approved boundary treatments plan for the 19/00413/FL planning application for the new bungalow on that plot at Croftonvale stated that any replacement boundary further down from the pond (see point 3 below) would be a 'gabion retaining wall faced with dry stone'.

Ashover Neighbourhood Plan policy AP16: DRY STONE WALLS states: Development proposals affecting a dry stone wall should be designed to retain or enhance it. Proposals for new dry stone walls that make a positive contribution to the network of dry stone walls across the Parish will be supported.

2) Ecological habitats and biodiversity:

- Garage / Store built adjacent to pond
- **Lack of vegetation along the Croftonvale southern boundary**

The new Garage/Store building now sits on the boundary between Croftonvale and Oakroyd directly next to a pond in Oakroyd that forms the habitat for many wildlife species, including frogs and newts.

The approved boundary treatments plan for the 19/00413/FL planning application for the new bungalow on the Croftonvale plot stated that the original dry stone wall would remain adjacent to the Oakroyd pond and new hedging would be planted behind the existing dry stone wall.

As mentioned in the first Sanderson representation, this hedge will now not exist, as the land where it would have been sited will now be used as access for the garage that forms part of the 22/00244/FLH Garage/Store retrospective planning application.

With the Garage/Store now being sited at the very back of the Croftonvale plot, there does not appear to be provision for any soft planting down the entirety of the south boundary of the Croftonvale plot.

In the decision notice for the original 19/00413/FL planning application, there was a condition placed that stated: 'Before occupation of the dwelling hereby approved the proposed scheme of boundary treatments (drawing ref: 00319 A004) shall be implemented in full and then be retained as such thereafter.'

The removal of the dry stone wall adjacent to the pond, the lack of inclusion of the hedge, the replacement materials used on the boundary between Croftonvale and Oakroyd and the inclusion of the Garage/Store contravene that condition placed on the 19/00413/FL planning application.

In the 22/00244/FLH planning application form, 'No' has been ticked for the following questions: Are there any trees or hedges on the property or on adjoining properties which are within falling distance of the proposed development? and Will any trees or hedges need to be removed or pruned in order to carry out your proposal?

As stated in the Stevenson representation, there was a large healthy tree growing in the middle of the dry stone building that was demolished to make way for the Garage/Store detailed in the 22/00244/FLH retrospective planning application.

There still exists numerous hedges and trees on land adjacent to the Garage/Store. Whereas large areas of vegetation have been cleared during development of Croftonvale, including the healthy tree that grew within the dry stone outbuilding. As stated in the Stevenson representation, vegetation on Oakroyd land that was sited adjacent to the boundary of Oakroyd / Croftonvale was damaged when the boundary walls were removed.

Although parts of the Garage/Store may eventually be masked by re-growth of existing vegetation on Oakroyd land. The Garage/Store building, especially the section that now sits forward compared to the previous dry stone outbuilding, is

clearly visible from the private rear garden at Oakroyd and will not be masked. This is and will continue to be especially evident in the months of the year when the larger deciduous trees on the Oakroyd boundary drop their leaves. It should not be expected that the owners of Oakroyd have to plant vegetation on Oakroyd land to mask a 2-storey building that has been placed directly on the boundary.

The Ashover Neighbourhood Plan policy AP15: IMPORTANT TREES AND HEDGEROWS states:

Wherever it is practical, development proposals will be required to retain existing trees and hedgerows of good quality and/or visual significance, trees and hedgerows which are likely to become visually significant when a site is developed or have been identified as being of historic importance. Where it is not practical to retain significant trees, and the benefits of the development justify their loss, replacement planting, preferably on site should be provided. During the course of any development such trees and hedgerows should be protected to ensure their future survival and retention.

3) Overbearing building:

• Single storey dry stone derelict outbuilding replaced with 2-storey Garage/Store directly on Oakroyd / Croftonvale boundary

To prevent buildings of an overbearing nature being built on boundaries between residential properties, development is not permitted for outbuildings that have more than a single storey, or where the height of the building would exceed 2.5 metres, in the case of the building being within 2 metres of the boundary of the curtilage of the dwellinghouse.

As shown in the images in the previous Sanderson representation, the original dry stone building on the boundary between Oakroyd and Croftonvale was of a low level and single storey. The roof of this derelict dry stone outbuilding was slanted upwards away from the Oakroyd boundary. Visually, the derelict dry stone building, along with the tree that grew in the middle of it, was in keeping with and blended into the surrounding landscape.

The Garage/Store that has replaced this dry stone building on the boundary of Oakroyd / Croftonvale is overbearing. It has a 2-storey gable end adjacent to Oakroyd, which has been built using breeze block. The front section of the Garage/Store building now sits forward from the site of the original dry stone outbuilding and in so doing has encroached upon land belonging to Oakroyd.

Considering that the Garage/Store building sits forward from the siting of all the original outbuildings, is on the boundary line and is two-storey, it is significantly more imposing than the original collection of single-storey outbuildings.

It should be noted that, within the Ownership Certificates and Agricultural Land Declaration section of the 22/00244/FLH retrospective planning application form, the box for 'Yes' has been ticked in answer to the question 'Is the applicant the sole owner of all the land to which this application relates; and has the applicant been the sole owner for more than 21 days?'. This does not appear to be correct.

I agree that the legalities with respect to boundary disputes are not of material consideration with regards to planning. However, the report makes multiple references to the disputed boundary, including the Stevenson representation, which makes claims regarding gain of land on behalf of Oakroyd. These claims have been included as bullet points within the report. This part-owner, prior occupier and co-legal representative of the Oakroyd estate is not in agreement with those claims.

I am disappointed that the boundary materials with respect to the original 19/00413/FL plans have not been upheld and that section 7.15 of the report for 22/00244/FLH states 'Officers do not consider that these matters are required to be controlled by way of conditions on any decision.'. Should the planning committee be mindful of granting approval for 22/00244/FLH, I would like to see there being conditions relating to the materials used for the boundary wall and the South West elevation of the Garage/Store. This would ensure that the Garage/Store building and boundary wall will be appropriately finished.

OFFICER COMMENTS:

The vast majority of the building has been constructed of stone. It has been pointed out in representations that a small section of the building is constructed of breeze block, however, Officers are of the view that this is such a small are of the building that there is no adverse overall impact on the character of the area and so its control via condition is not warranted. The comments made in respect of Ashover NP policy AP 16 are noted but no planning consent is required to demolish a wall except in certain circumstances within a Conservation Area.

Should consent be granted of the garage its retention would override any previously required landscaping/walling. The comments made are noted but as the site backs onto another residential unit the retention of a harder boundary in this case is not considered unacceptable.

The impact of development on the amenity of adjoining resident is a material matter. However, in this case, such is the distance of the garage from the nearest residential property and the fact there are no side windows proposed that the relationship is considered acceptable.

2. SOURCE OF COMMENTS: Paul Charlesworth

DATE RECEIVED: 25.05.2022

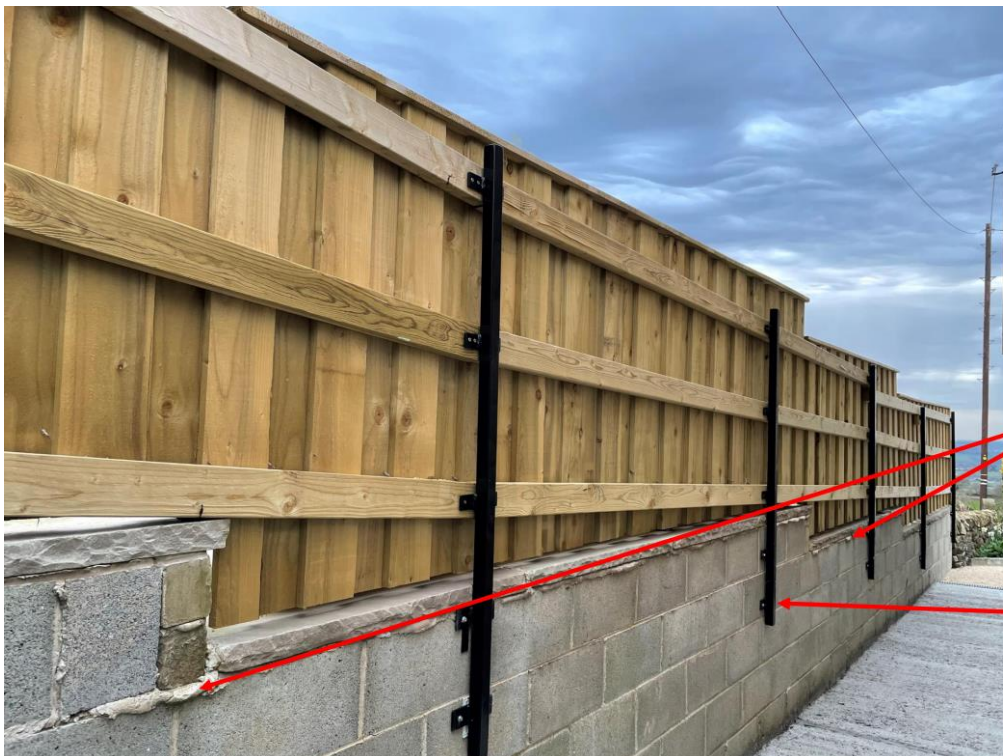
SUMMARY:

These images are of the boundary wall and access path to the side of the property known as Oakroyd and forming the boundary with Croftonvale.



The images were taken following re-construction of the boundary wall but before the original concrete path was broken up and removed. These images disprove the assertion that Oakroyd has gained 10-12 inches along this boundary.

The submitted images (below and previously submitted) actually show that the supporting metalwork for the new timber fence are located on Oakroyd side, overhanging boundary. If the wall is to be re-clad in stone as proposed, the path will probably be narrower than originally:



Full length timber fence down side of Oakroyd bungalow replaced with breeze-block wall with timber fence on top

Boundary is responsibility of Croftonvale - developer has 'made good' on Croftonvale side, but 'bad' side exposed on Oakroyd side

Excess mortar not cleared off breeze block wall (full length of wall)

Large fence posts attached to breeze-block wall / timber fence on Oakroyd side and overhanging Oakroyd land

It is acknowledged that boundary's and land ownership are not a Planning matter but it is stated that this is further evidence that the whole Croftonvale development has been made without due regard to Planning or neighbouring properties. The Applicant at the time would have made a declaration that they were the owner of the land on which the development is being made.

This is alleged to be further backed up by the disregard to the Conditions in 20/00079/FL which granted permission to demolish the bungalow and construction a new house.

If consent is granted it is asked that as a minimum:

- The breezeblock end elevation of the garage/store, overlooking Oakroyd property, is taken down and rebuilt in stone in keeping with the material used on the other three elevations.
- That the breezeblock retaining wall running along the boundary, between Croftonvale and Oakroyd, is taken down and rebuilt as a dry stone wall in keeping with the original boundary wall. This would also bring the development in line with the Ashover Neighbourhood Plan and more specifically POLICY AP16: DRY STONE WALLS.
- That metal work or other means of securing any subsequent timber fencing is secured on the Croftonvale side.

The latter two points regarding Boundary Treatments are specific to Application No: 19/00413/FL which required the implementation of agreed boundary treatments.

OFFICER COMMENTS:

Any and all private matters concerning ownership lie outside the considerations of Planning Committee. They are private matters.

The application seeks consent to retain the garage only. If permission is granted for the garage it would override any other affected conditions in respect of walling etc. although not features not so affected. The application form only makes reference to stone walls.

In this regard Officers conclude that as built the garage is an acceptable feature in this location.

North East Derbyshire District Council

Planning Committee

31 May 2022

Planning Appeals Lodged and Determined

Report No PM/01/2022-23/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 Appeal Lodged

The following appeal has been lodged:-

Mr P Pollard - W G Pollard Ltd - Application for proposed building for storage including; land maintenance equipment, office, reception, health and safety briefing area and picnic shelter in association with Freebirch Quarry Clay Pigeon Shoot, as well as the wider landholding at Land South Of Quarry Farm Freebirch, Eastmoor (21/01100/FL)

Planning Officer – Colin Wilson colin.wilson@ne-derbyshire.gov.uk

W Redmile & Sons Ltd - Application for proposed development of 50 dwellings associated roads, sewers, gardens, parking and garages (Major Development) (Departure from the Development Plan) (Amended Plans) at Land Between Old Canal And North Side Of Primrose Lane, Killamarsh (20/00919/FL)

Planning Officer – Philip Slater philip.slater@ne-derbyshire.gov.uk

W Redmile & Sons Ltd - Application for proposed development of 50 dwellings with associated roads, sewers, gardens, parking and garages (Major Development) (Departure from the Development Plan) (Re-submission of 20/00919/FL) (Amended Plans) at Land Between Old Canal And North Side Of Primrose Lane Killamarsh (21/00976/FL)

Planning Officer – Philip Slater philip.slater@ne-derbyshire.gov.uk

Ben Lamb - Retrospective Application for the provision of three temporary pods located on an existing campsite field that has established access and parking for the purposes of tourist accommodation, (affecting a public right of way) at Campsite Moorhay Farm, High Lane, Wigley (21/01088/FL)

Planning Officer – Colin Wilson colin.wilson@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

Is the decision a Key Decision? 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>NEDDC: Revenue - £100,000 <input type="checkbox"/></i> <i>Capital - £250,000 <input type="checkbox"/></i> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Background Papers (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) you must provide copies of the background papers)	
Report Author	Contact Number
Joanne Edwards	01246 217163

North East Derbyshire District Council

Planning Committee

Meeting Date: 31 May 2022

PLANNING ENFORCEMENT SERVICE PROGRESS REPORT

Report of the Principal Planning Enforcement Officer (Development Management)

Classification: This report is public

Report By: Principal Planning Enforcement Officer (Development Management)

Contact Officer: Julian Hawley

PURPOSE / SUMMARY

To provide for all elected Members a breakdown of work carried out by the Planning Enforcement service in accordance with the Local Enforcement Plan adopted in June 2021.

RECOMMENDATIONS

1. That the contents of this report and the information contained within Appendix A is noted

Approved by Councillor C Cupit, Portfolio Holder for Environmental Services

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐

Details:

A failure to monitor and enforce planning control would leave the Council at risk of reputational damage and potential costs on appeal to the Local Government Ombudsman and/or Judicial Review of action or decisions not to act. This is not considered a viable alternative.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☒ No ☐

Details:

The specific details relating to each case are confidential and the report sets out information that is nonspecific. However, formal enforcement action is part of the planning register and a public document; a list of the formal enforcement action taken by the Council is set out in Appendix A

On Behalf of the Solicitor to the Council

Staffing: **Yes** ☒ **No** ☐
Details:

The proper monitoring and enforcing of planning control carries with it human resource implications. Currently these are being managed within existing resources

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? 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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet <input checked="" type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Yes Details: Richard Purcell – Assistant Director of Planning Cllr Charlotte Cupit – Portfolio holder...

Links to Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.
--

Reporting on progress of the team and reporting to Members with updates is set out in the Councils adopted Local Enforcement Plan and the Council's adopted performance targets.
--

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

- 1.1 This report sets out information relating to the work carried out by the Planning Enforcement service over the preceding financial year 1 April 2021 to 31 March 2022. The intention is to bring a report before Members on a 6 month cycle, as per the Local Enforcement Plan, incorporating a more detailed annual report.
- 1.2 The attached Appendix A provides figures and information to show the work carried out by the Planning Enforcement service. Figures from the previous years have been also been presented to provide context where possible.

2. **Details of Proposal or Information**

- 2.1 The number of planning enforcement enquiries received in 2018 to 2021 remained fairly consistent at an average of 225 cases per financial year. However during the latest reporting period 2021/22, the number of enquiries dealt with by the service has increased by nearly 80% to 358. There are a number of reasons for this: proactive enforcement investigations by the enforcement team, better information recording and easier ways of reporting alleged breaches such as the new 'report it' section on the website.
- 2.2 Work continues to be carried out in the background to improve the way information is stored and retrieved. This includes steps to introduce an electronic enforcement notice register to be integrated into the Council's online mapping system. Work is also ongoing to record the number of cases proactively investigated by the team.
- 2.3 The breakdown of reasons for case closures is set out in Appendix A and shows that 40% of the enquiries investigated and closed in 2021/22 were not found to be a breach of planning control. These are for reasons that an allegation is not a planning matter (it might be an Environmental Health issue for example), it does not fall within the definition of development, or it is permitted development.
- 2.4 This means 60% of enquiries investigated and closed in 2021/22 were a breach of planning control, for which the Council has to decide an appropriate course of action
- 2.5 The breakdown shows over 30% of the cases were resolved with the owner/developer taking positive steps to resolve an issue. Furthermore, 20% of the enforcement cases were closed following the grant of a retrospective or part retrospective planning application.

- 2.6 Members will note the number of outstanding enforcement cases that remain open. There are several reasons for this: most notably the pandemic, which severely limited the Council's ability to carry out investigations in 2020/21 but also a number of long-term vacant posts in the enforcement team.
- 2.7 The consequence of this is a backlog of cases where investigations need to be started, or started again because of the passage of time. The team was finally fully resourced in September 2021 and work is ongoing to reduce the backlog, as well as accommodate the significant increase in numbers. The team is reviewing cases to assign a 'priority' based on the severity of the breach so that the most serious issues are prioritised, again as set out in the Local Enforcement Plan.

3 Reasons for Recommendation

- 3.1 The proper monitoring and enforcement of planning control maintains public confidence in the planning system and ensures that everyone who engages properly with the process is treated fairly and equally. It maintains confidence in the Councils adopted planning policies and remedies development that has, or continues to have, a detrimental impact on amenity.
- 3.2 This report affords Members the information on which to monitor progress of the planning enforcement service as well as providing information on the volume of work dealt with by the team.

4 Alternative Options and Reasons for Rejection

- 4.1 The Council has a duty to investigate all alleged breaches of planning control. It is then at the discretion of the Council as to whether formal enforcement action is taken, having regard to the development plan and other material considerations

DOCUMENT INFORMATION

Appendix No	Title
A.	Planning enforcement update report
Background Papers (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) you must provide copies of the background papers)	
All alleged breaches of planning control recorded and investigated by the Council. All formal enforcement action taken by the Council, including formal requisition for information.	

North East Derbyshire District Council

Planning Committee

31 May 2022

Planning Enforcement service progress report – APPENDIX A

Enforcement enquiries received, investigated and closed between 1 April 2021 and 31 March 2022

1 April 2021 – 31 March 2022			
Received	Closed	Outstanding	
358	388	321	

Breakdown by reason for closure		
	Number	Percentage
Not a planning matter	35	9%
Not a breach	79	20%
Permitted development	24	6%
Planning application approved	74	20%
Condition/detail complied with	29	8%
Work reversed/use ceased	94	24%
Direct Action	1	< 1%
Duplicate cases	12	3%
Immune/lawful	8	2%
Not expedient	32	8%

Formal Enforcement Action taken in the period 01 April 2021 – 31 March 2022

Location	Action Type	Alleged Breach	Status
Land at Clay lane, Clay Cross	Temporary Stop Notice	Commencement of the development in advance of discharge of conditions	Complied with
Land at Boiley Lane, Sheffield	Enforcement Notice	Material change of use of the land to a use for the siting of caravans for purposes of human habitation	Issued and appealed. Hearing date TBC
Whitegates, 129 Chesterfield Road, Dronfield	Direct Action	Removal of unauthorised advertisement	Complete and costs recovered

Land at Brindwood House, Millthorpe	Enforcement Notice	1) Without planning permission, building operations comprising the erection of an L-shaped garage building 2) Without planning permission building operations, comprising the erection of a building	Issued and appealed. Public Inquiry September 2022
Land at Brindwood House, Millthorpe	Enforcement Notice	Material change of use of a building to a use as a single dwellinghouse (use class C3)	Issued and appealed. Public Inquiry September 2022
Land To Rear Of 133-143, Holmley Lane, Dronfield	Enforcement Notice	1) Without planning permission, engineering operations comprising the deposit of material and the alteration of the landform to create a terrace and associated embankment. 2) Without planning permission, engineering operations comprising the deposit of material and the alteration of the landform to infill a void left over from the demolition of a building, and to create a terrace and associated embankment in connection with a barn conversion granted at appeal APP/R1038/W/18/3200789.	In effect and being complied with
Land at the Fox and Goose, Wigley	Enforcement Notice	Building operations comprising the erection of a timber gazebo	In effect. Compliance by October 2022

Enforcement Appeal Decisions in the period 01 April 2021 – 31 March 2022

Location	Action Type	Alleged breach	Decision
Land at Border View Farm, Rod Moor Road, Dronfield Woodhouse, Derbyshire	Enforcement notice	Without planning permission, the erection of a building on the Land covering a riding arena Appeal A: APP/R1038/C/20/3263940 Appeal B: APP/R1038/C/20/3263941	Dismissed
Land at Border View Farm, Rod Moor, Road, Dronfield Woodhouse, Derbyshire	Enforcement notice	Without planning permission, the material change of use of the Building from agricultural use to use as a café. Appeal C: APP/R1038/C/20/3266493 Appeal D: APP/R1038/C/20/3266494	Allowed, and planning permission is granted

Land at Border View Farm, Rod Moor Road, Dronfield Woodhouse, Derbyshire	Enforcement notice	Without planning permission, the erection of a shed/building on the Land Appeal E: APP/R1038/C/20/3266496	Dismissed
Land adjacent to 1 Swathwick Lane, Wingerworth, Chesterfield.	Enforcement Notice	Change of use of land from agriculture to residential use including the creation of a concrete hardstanding and plinth, water tank, diesel generator and diesel tank APP/R1038/C/21/3272250	Part allowed (on lawfulness), part dismissed. Notice corrected and varied.

Other Notices issued (action which does not form part of the planning register)		
Community Protection Warning Notices	2	
Planning Contravention Notices	12	