

PLANNING COMMITTEE – 28 June 2022

REFERENCE NUMBER: 22/00248/FLH Application Expiry Date: 04 May 2022
Application Type: Full Planning Permission

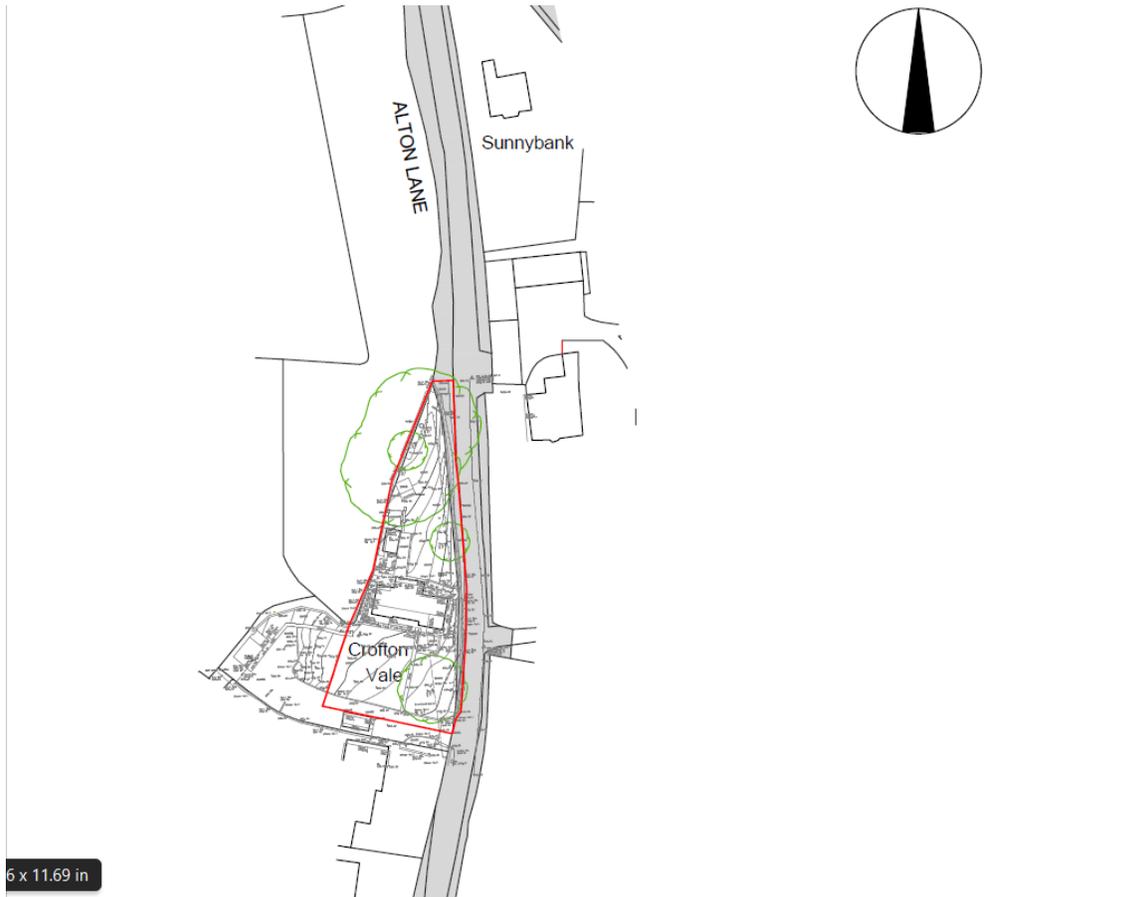
Proposal Description: Section 73 application to revise condition 2 (Approved drawings) pursuant of 20/00079/FL
At: Croftonvale Alton Lane Littlemoor Ashover Chesterfield S45 0BE

For: Mr Day

Third Party Reps: 1 **Parish:** Ashover Parish Council
Ward Name: Ashover Ward

Author of Report: Case Officer Aspbury Planning **Date of Report:** 15.06.2022

MAIN RECOMMENDATION (GRANT)



1.0 Reason for Report

- 1.1 The application has been called into Planning Committee by Councillor Armitage in view of the removal of the stone wall and privacy issues with the neighbour

2.0 Proposal and Background

- 2.1 The application site is located to the west of Alton Lane, which runs north to south, within, and at the northern boundary of, the Settlement Development of Littlemoor. The eastern boundary of Croftonvale (adjacent to Alton Lane) comprises of a mix of hedgerow and drystone wall.

- 2.2 Croftonvale is a stone bungalow which was granted planning permission in 2020 under planning reference 20/00079/FL. The garage building, granted retrospective permission 22/00244/FL, 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 south is Oakroyd a detached dwelling and to the north is open countryside. The boundary to Oakroyd is a stone wall with a fence a top. The western boundary of the site is defined by a drystone wall and beyond which is open countryside.

- 2.4 The proposal has been submitted as a Section 73 application and proposes to revise condition 2 (Approved drawings) pursuant 20/00079/FL. The application is retrospective and is submitted in response to correspondence with NEDDC enforcement.

- 2.5 The amended plans propose the following alterations from the previously approved proposal:

- Ridge height 257217 – 6.9m (200mm above the previously approved height)
- North Elevation
 - First floor windows altered to triple instead of double windows
 - Chimney removed
- South Elevation
 - First floor windows altered to a triple instead of double windows
 - Chimney removed
- West Elevation
 - Chimney removed

- East Elevation
 - No changes

3.0 Relevant Planning History

- 3.1 19/00413/FL | Construction of new bungalow | Conditionally approved 11th July 2019
- 3.2 20/00079/FL | Demolition of existing bungalow and construction of new house (Amended Plans) | Conditionally approved 25th September 2020
- 3.3 22/00244/FL | Retrospective application for garage with store | approved 1st June 2022

4.0 Consultation Responses

- 4.1 **Ashover Parish Council** object to the application due to the loss of privacy to an adjacent property 'Oakroyd'.
- 4.2 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 for the area and considered on its own merits.
- 4.3 **Ward Councillor** Armitage supports the Parish Council comments.
- 4.4 **Highways Authority:** No highway objections to the variation of condition 2, on the basis the previous highway comments, conditions and notes relating to the original application continue to apply.
- 4.5 **Environmental Health:** Environmental Protection have no objections to the variation of condition 2, on the basis the previous Environmental Protection comments, conditions and notes relating to the original application continue to apply.
- 4.6 **Derbyshire Wildlife Trust** have commented that changes to the proposed building structure are unlikely to have any bearing on the existing ecological assessment, providing it doesn't affect agreed tree protection measures. The Trust have no further comments.

5.0 Representations

- 5.1 The nearby neighbours were consulted by letter and a site notice posted on the entrance gate to the property displayed on the 25th March 2022. As a result, one objection has been received from a joint executor of the late Kathleen Stevenson of which 50% of Oakroyd estate is included. A

summary of the comments received is provided below, a full copy can be viewed on the Councils Planning Portal.

5.2 The objection is summarised below:

- The proposals are overbearing, the 2-storey dwelling replaces a single storey bungalow with an increased ridge height when compared to the bungalow.
- Overlooking and reduction in privacy, the increased height of the new 2 storey dwelling increases the risk of overlooking the Oakroyd plot. The new dwelling has first floor windows in comparison to the bungalow which only had ground floor windows.

6.0 Relevant Policy and Strategic Context

6.1 The Development Plan comprises of the North East Derbyshire Local Plan (2014-2034) and Ashover Neighbourhood Plan (2016-2033)

6.1 North East Derbyshire District Local Plan

- SS1 Sustainable Development
- SS2 Spatial Strategy and the Distribution of Development
- SS8 Development in Very Small Villages & Hamlets
- SDC3 Landscape Character
- SDC12 High quality Design and Place-Making

6.2 Ashover Parish Neighbourhood Plan 2016 - 2033

- Policy AP1: Development within Limits to Development
- Policy AP11: Design
- Policy AP13: Landscape Character

6.3 National Planning Policy Framework

6.4 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application.

6.5 Other Material Planning Considerations

- Successful Places Interim Planning Guidance, adopted December 2013

7.0 Planning Issues

Principle of Development

- 7.1 The site lies within the Settlement Development Limits (SDL) for Littlemoor where policy SS8 of the adopted Local Plan accepts development that respects the form, scale and character of the existing settlement and surrounding landscape, through careful siting, scale, design and use of materials.
- 7.2 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.
- 7.3 Ashover Neighbourhood Policy AP1 also supports proposals which do not adversely affect neighbouring properties by way of loss of privacy, daylight, visual intrusion or amenity. Policy AP11 is a criterion based policy which expects development proposals to be designed well and sensitively to ensure that the high quality built environment of the Parish is maintained and enhanced. They should respect local character having regard to scale, density, massing, layout, materials and access, as appropriate.

Impact upon the Character of the Area.

- 7.4 The amended plans propose minimal alterations from those previously approved, the increase in the ridge height from that previously approved is 200mm resulting in an overall height of 6.9m, 1.7m over the height of the original bungalow.
- 7.5 The first-floor windows on the south and north (front and rear) elevations have been altered from double windows to triple windows.
- 7.6 The chimney has also been removed from the design of the dwelling. There are no changes to the previously approved materials.
- 7.7 On considering the retrospective proposal including the minimal alterations to the scale and the design of the dwelling it is concluded that it does not have a detrimental impact on the character of the area.

Impact upon Residential Amenity

- 7.8 Policy SDC12 supports proposals which do not have a detrimental impact on the amenities of neighbouring occupiers and ensures adequate standards of privacy and outlook. The Council's SPD, Successful Places includes design guidance for new proposals to protect residential amenity.

- 7.9 Ashover Parish Neighbourhood Plan Policies AP1 also supports proposals which do not adversely affect neighbouring properties by way of loss of privacy, daylight, visual intrusion or amenity.
- 7.10 The amended plans propose an increase in the height of the dwelling of 200mm, there is no change to the siting of the dwelling from that previously approved. The first-floor windows are altered from double windows to triple windows.
- 7.11 Oakroyd is located to the south and is a detached bungalow. In view of the separation distance from subject property, topography and the very minimal increase of only 200mm in the height of the dwelling, it is not considered that the proposed amendments to the dwelling would give rise to an overbearing relationship or loss of privacy in this instance.
- 7.12 It is also noted that there were no objections to the previously approved application 20/00079/FL either from the ward or parish council or neighbours.
- 7.13 The proposal is therefore considered to accord with the North East Derbyshire Local Plan policies SS8 and SDC12 and Ashover Neighbourhood Plan Policy AP1 and AP11.

Highway Safety

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

8.0 Summary and Conclusion

- 8.1 The proposal seeks retrospective planning permission for the amendments to the new dwelling previously approved under application 20/00079/FL. 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 S73 application, it is not considered that the minimal increase of 200mm to the height of the dwelling and change in first floor windows on the front and rear elevations causes any adverse or significant impact upon the character of the area or residential amenity of neighbouring properties. Accordingly, it is recommended that planning permission is **Granted** subject to conditions.

9.0 Recommendation

9.1 GRANT Full Planning Permission subject to the following conditions

Conditions

1. The development hereby approved shall be carried out in accordance with the submitted plans:

Existing Site Plan – Ref: 026 18 A001

Proposed Site Plan - Ref: 026 18 A002 Rev A

Site Section - Ref: 004-22 A005

Proposed Plans - Ref: 004-22 A101

Proposed Elevations - Ref: 004-22 A103

Landscaping and tree protection - Ref: 026 18 A007

Stone Head, Cils, Quoins – Ref: 026 18 A104

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.

2. All planting, seeding or turfing in the approved scheme of landscaping (landscaping and tree protection - Ref: 026 18 A007) 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.
3. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
4. Prior to the first occupation of the dwelling hereby approved, any Made Ground on the site shall be removed or a contamination investigation and risk assessment of that part of the site shall be carried out by a competent person in accordance with current guidance and in accordance with a scheme which has been approved by the local planning authority, to demonstrate that the site is suitable for the use hereby approved. Where the site investigation and risk assessment shows that contamination remediation is required, a remediation scheme shall be prepared and submitted to the local planning authority for written approval; the approved remediation scheme shall be implemented as approved and a verification report shall be submitted to and approved in writing demonstrating that the remediation has been carried out successfully prior to the first occupation of the dwelling hereby approved.

5. Where any suspected areas of contamination are discovered during the development of the site, the process of site investigation and risk assessment as identified in condition 5 above shall be carried out by a competent person in accordance with current guidance and in accordance with a scheme which has been approved by the local planning authority, to demonstrate that that part of the site is suitable for the use hereby approved.
6. In the event that it is proposed to import soil onto site in connection with the development, the soil to be imported shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical Testing of Soil Scheme for all parameters previously agreed in writing with the local planning authority, the results of which shall be submitted to and shall be approved in writing with the local planning authority.

Notes

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.

In the unlikely event of bats being found during the development all works should cease immediately and advice sought from a professional ecologist.