

PLANNING COMMITTEE – 16 JANUARY 2024

Reference Number: 23/00609/FL

Application expiry: 19/1/2024

Application Type: Full

Proposal Description: Proposed reconstruction of two storey dwellinghouse, rebuilding of external WC and construction of new domestic outbuilding to form a tractor store and workshop (private drainage system)

At: Site of former Hay Lane Cottage, Hay Lane, Milltown, Ashover

For: Mr and Mrs Robert Sharpe

Third Party Reps: Support and Objection

Parish: Ashover

Ward: Ashover

Report Author: Susan Wraith (4PD)

Date of Report: 18 December 2023

MAIN RECOMMENDATION: Refuse

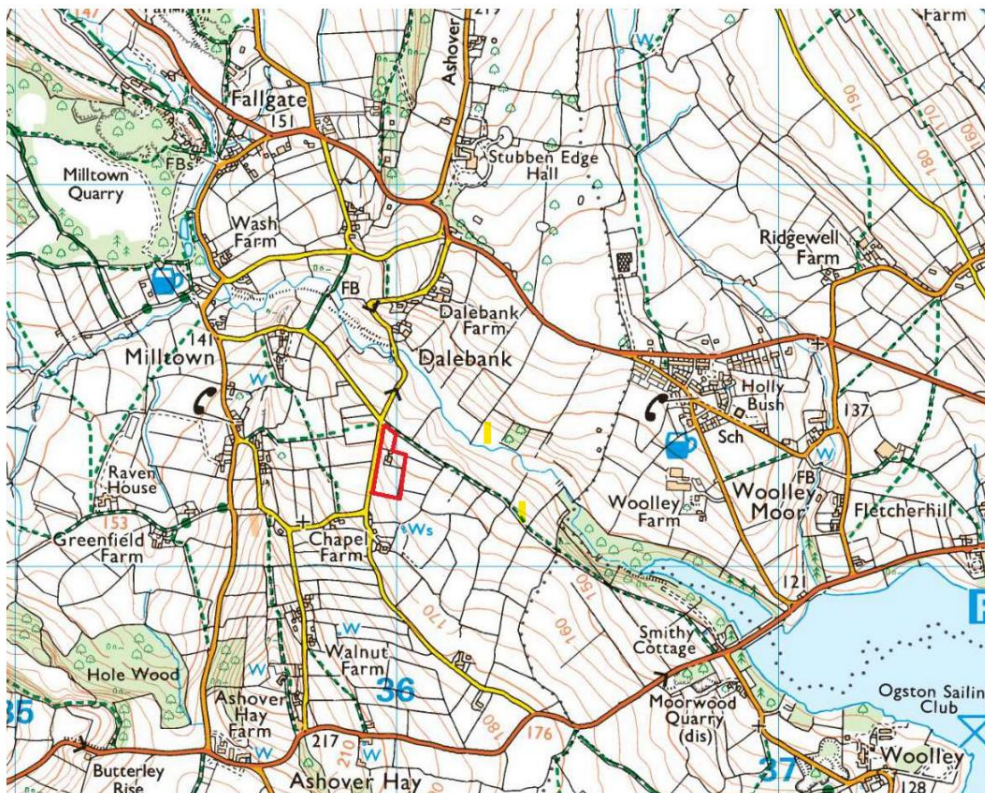


Figure 1: Location Plan

1.0 Reason for Report

- 1.1 The application has been called in by Councillor Wetherall for Planning Committee consideration and decision. The reason given for the “call-in” is as follows:

The site is of significant public interest to constituents and is highly prominent within the landscape, being visible from across the valley hundreds of metres from the site. The Neighbourhood Plan also has consideration as to proposals within the Dark Skies areas. I feel that the site needs to be visited and considered by the elected planning board so that they can fully consider the impact of the proposal upon this area of outstanding landscape character and on public visual amenity. I am also conscious that the site is somewhat remote and full consideration to the impact upon highway and other infrastructure will be helpful.

2.0 Site and Surroundings

- 2.1 The application site comprises the middle part of the land indicated in Figure 1 and is more specifically identified shown edged red in Figure 2 below. The site is part of a field within which once stood former Hay Lane Cottage which is now in a ruinous state.
- 2.2 The site is beyond the settlement development limits within an area of countryside as defined by the Local Plan.
- 2.3 There are public footpaths that run close to the site including NE1/85/1 to the north.
- 2.4 The landscape character type is that of Wooded Slopes and Valleys within the Peak Fringe and Lower Derwent Landscape Character Area. The landscape is of primary landscape sensitivity and located within an Area of Multiple Environmental Sensitivity (AMES) as defined in the Local Plan.

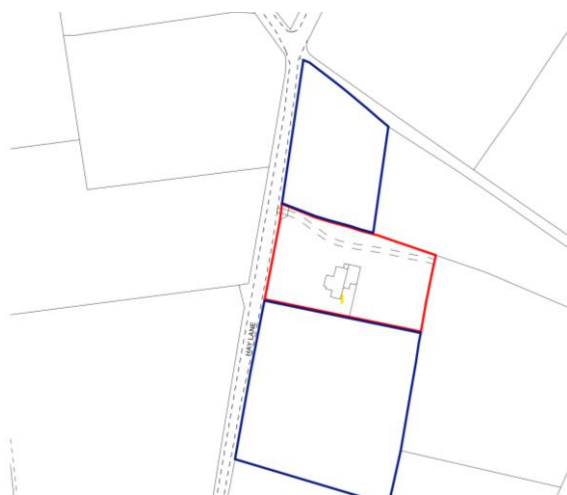


Figure 2: Site Location Plan

3.0 Proposal

- 3.1 The proposal involves, essentially, the construction of a new dwelling on the footprint of the former cottage. The remaining walls (now in a ruinous state) would be dismantled and the stone re-used for the new dwelling. The site in its current state is shown in the photographs at Figures 5, 6, 7 and 8 below. It is intended that the bottom few courses of stone, insofar as they survive, would be retained and incorporated into the building.
- 3.2 The proposal also includes the construction of a workshop and tractor store for use for the storage of equipment needed for the maintenance of the land and for domestic purposes incidental to the dwellinghouse use, and a WC building said to be on the footprint of the earlier privy. The proposed site layout appears in figure 3 below.

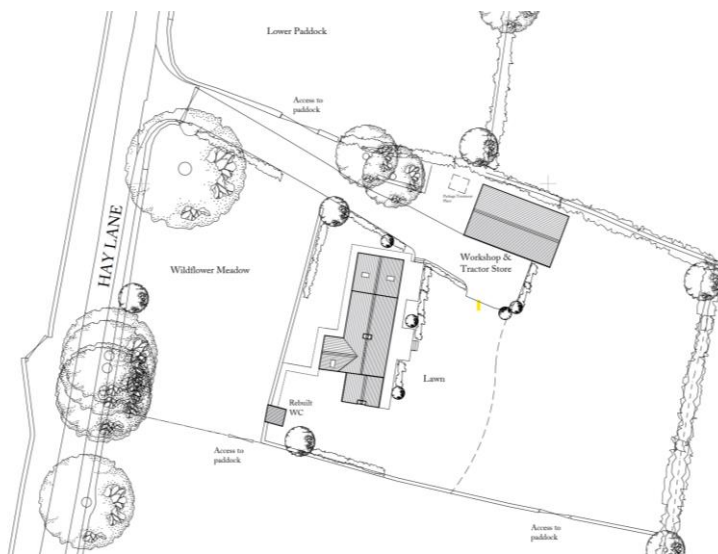


Figure 3: Proposed Site Layout

- 3.3 The new dwelling would be of stone with a timber clad east element in an elongated form. The east facing elevation would appear as in figure 4 below.



Figure 4: Proposed east elevation

3.4 Access would be taken from Hay Lane where there is an existing field access.

3.5 The application is accompanied by the following documentation:

Coal Mining Risk Assessment

Statement from Appellant

5no. letters of support also recounting the history of Hay Lane Cottage

Planning Design and Access Statement

Sustainability and Energy Statement

Preliminary Ecological Appraisal and Biodiversity Net Gain calculation

Topographic Survey.



Figure 5: Site seen from the site boundary (1)



Figure 6: Site seen from the site boundary (2)



Figure 7: Site seen from site access (1)



Figure 8: Site seen from site access (2)

4.0 Background

- 4.1 There are no previous planning applications relating to the site.
- 4.2 Hay Lane Cottage is seen on the early maps of the area from the 1800's. Evidence indicates that the cottage was occupied as a dwelling until 1959. By then (it is said) the property was in a poor state of repair. It was not connected to utilities and water to it was fed from a well.
- 4.3 The land and property were sold in 1960 and became part of a larger farm in the area. Thereafter the land was farmed (some of the time on a tenancy). There is some evidence that the building was used as a farm store and for livestock (at least for a time). Some people recall that there was a fire in 1961 that destroyed (or at least affected) the building. Over the ensuing years the building fell into ruin. The Google Streetview image at figure 9 below shows the condition of the land as in 2009.



Figure 9: Google Streetview Image dated 2009

- 4.4 The land, including the ruinous building, was sold to the current owner in 2021. Since then works have been carried out to repair and rebuild dry stone walls and to clear the area of overgrown vegetation. A recent photograph, included in the submitted Design and Access Statement appears at figure 10 below.



Figure 10: Recent photograph as appears in the Design and Access Statement

5.0 Consultations

5.1 **Ward Councillor** – Requests that Planning Committee determine this application for the reasons given in para 1.1 above.

5.2 **Parish Council** – Responded that it has “no comments”.

- 5.3 **Planning Policy and Environment Team** – The proposal does not affect any listed building, conservation area or non-designated heritage asset. Suggest seeking archaeology advice as to whether a building record might be required.
- 5.4 **Environmental Health** – No objection to the proposals in principle. Following further consideration of the Coal Mining Risk Assessment conditions are recommended to deal with land contamination issues. No objection to the workshop if in domestic use.
- 5.5 **Highways Authority** – The proposed development does not give rise to any material changes to the highway or demonstrable harm to highway safety. Furthermore the development proposal does not appear to represent an intensification. As such the Highway Authority does not seek to resist this application subject to the imposition of conditions to cover gradient of access, visibility splays, setting back of gates and provision of 3 parking spaces.
- 5.6 **DCC Archaeologist** – There is heritage value in the structure which may be best revealed and the rebuilding of the cottage better informed by appropriate elements of archaeological recording inbuilt into the programme of ground clearance and reconstruction. Any heritage value could be achieved by the inclusion of a programme of building recording of the extant elements of the standing remains. The matter could be covered by planning conditions. Comments of residents attest the craftsmanship of the applicants and their wish to genuinely develop sensitively and sustainably, which is to be wholeheartedly applauded.
- 5.7 **Coal Authority** – The Coal Authority concurs with the conclusions of the coal Mining Risk Assessment report, that coal mining legacy potentially poses a risk to the proposed development and that investigations are required along with possible remedial measures in order to ensure the safety and stability of the proposed development. Planning conditions are recommended.
- 5.8 **Derbyshire Wildlife Trust** - Planning conditions can limit the impacts of the development on species and habitats at the site as well as ensuring biodiversity net gain is secured.

6.0 **Public Comments**

- 6.1 30 representations of support have been received summarised as follows:

The cottage is an important part of Ashover history and should be brought back to life;

The plans have regard to sustainability and ecological enhancements;

Proposals are in keeping with the area and would fit into the landscape;

The applicant is a craftsman and would finish the property to a high standard;

Will provide a home for a local family in an area where housing supply is short;

Will provide a workspace for a respected local business;
Bringing the building back to life and re-using materials and footprint will enhance the area;
The ruin is a blot on the landscape. The proposal would bring about enhancement;
It is sustainable to redevelop an existing site to a sympathetic standard;
Hay Lane Cottage was once a dwelling and should be so again;
The development will fit into the landscape as part of a significant number of dwellings that lie on Dalebank Road, Brown Lane and The Hay;
The applicants are well known and respected in the area;
The structure has not re-naturalised and is seen as a derelict building; The land should be considered as “previously developed land”;
Stone from the original building will be re-used;
A precedent has already been set by another property in similar circumstances;
Planning conditions could be used to control noise and light;
Hay Farm has been part of the landscape for over 150 years and has right of passage to be brought back into use;
The NPPF provides for planning balance and exceptional and extenuating circumstances;
Restoring the farmhouse would preserve its physical structure, stories and traditions;
The restoration project would generate economic activity and stimulate the local economy.

6.2 5 representations objecting to the development have been received summarised as follows:

Concerns re effect upon Dark Skies area policy AP19 of Neighbourhood Plan;
The ruin is not within 50m of a street light;
The dwelling would be part wood clad whereas the former property was stone and there are 5 listed properties within 0.5 mile all of which are stone;
Concerns re disturbance to badgers;
Concerns re other unauthorised works on the site and tree felling;
Site is within open countryside and proposal does not fall within any of the categories of development acceptable in countryside;
The location is unsuitable for residential use and new business premises;
Would result in significant landscape harm;
Is within a Coal Authority Development High Risk Area;
Adverse impacts on biodiversity and protected species;
Intensification in use of Hay Lane resulting in highway safety issues;
Business use would result in noise and pollution and would adversely affect tranquillity of area;
No access to services and facilities without reliance on private car use;
Heritage value of the remains of the former building would be lost;
Proposal is for a brand new dwelling – not a reconstruction;
Access is via narrow country lanes not suitable for HGVs and increased traffic;

Joinery business would utilise machinery and generate waste;
There is sufficient new housing stock already coming forward;
The ruin is assimilated into the landscape whereas the new dwelling would have significant adverse visual impact;
The applicant's craftsmanship credentials are of no relevance to the planning considerations for the application as permission goes with the land;
Taking down the remaining ruins will result in loss of historic fabric;
The development will clearly have a greater impact on the countryside than the existing ruin contrary to policy SS9.

7.0 Planning Policy Considerations

7.1 The Development Plan comprises the **North East Derbyshire Local Plan** [Local Plan] and the **Ashover Parish Neighbourhood Plan** [Neighbourhood Plan].

7.2 The following policies of the Local Plan are considered relevant to the application:

SS1: Sustainable Development
SS2: Spatial Strategy and the Distribution of Development
SS9: Development in the Countryside
SDC3: Landscape Character
SDC4: Biodiversity and Geodiversity
SDC7: Scheduled Monuments and Archaeology
SDC12: High Quality Design and Place-Making
SDC14: Land potentially affected by Contamination or Instability
ID3: Sustainable Travel

7.3 The following policies of the Neighbourhood Plan are also considered relevant:

AP2: Development Proposals Outside the Limits to Development
AP11: Design
AP13: Landscape Character
AP19: Dark Skies

7.4 The **National Planning Policy Framework (NPPF)** is also material to the determination of this application, in particular, the sections on Rural housing (paras 82-84), Making effective use of land (Chapter 11) and Conserving and enhancing the natural environment (Chapter 15).

8.0 Planning Issues

Main Issues

8.1 The main issues for consideration in this application are:

- 1) Whether the development of this new dwelling in the countryside is acceptable with regard to the spatial strategy as set out in the Local Plan;
- 2) Whether the development would result in harm to the landscape character and appearance of the area.

Spatial Strategy

8.2 The Local Plan and the Neighbourhood Plan aim to direct new development to within settlement development limits and to protect the countryside from inappropriate development. Policy SS9 sets out a number of categories of development that will be approved in the countryside subject to the development respecting the form, scale and character of the landscape.

8.3 One of the categories (1.a.) is the replacement of an existing building so long as the new building is not materially larger and is for the same use. Another category (1.b.) is development that involves the re-use of existing buildings. A further category (1.f.) is development that:

“...involves the change of use, re-use, limited infilling or redevelopment of vacant, derelict or previously developed land which would not have a greater impact on the character of the countryside than the existing development”.

8.4 The development cannot qualify under 1.a. as there is no existing building to replace (only a ruin as shown in the photographs given above) and any previous residential use has long since been abandoned. Under 1.b. the applicant acknowledges that the proposal cannot be justified on the basis of conversion or re-use of a building given the extent of new building works that are involved. Instead an argument is put that the proposal represents redevelopment of derelict and/or previously developed land and, thus, that it is a development falling within para 1.f.

8.5 “Previously developed land” is defined in the Local Plan Glossary as:

“Land which is or was occupied by a permanent structure. This excludes land that is or has been occupied by agricultural or forestry buildings, land that has been developed for minerals extraction or waste disposal where provision has been made for restoration.”

8.6 “Previously developed land” is defined in the NPPF Glossary as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the

whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes : land that is or was last occupied by agricultural or forestry buildings, land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built up areas such as residential gardens, parks, recreation grounds and allotments, and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

- 8.7 It is the view of officers that, in this case, the land does not qualify as “previously developed land” as the remains of the building and fixed surface infrastructure have blended into the landscape as is evident in the photographs above and as has been the case over many years. On this point the development fails against the NPPF definition. Additionally, there is some evidence that the building was last used for sheltering farm animals and as a farm store, in other words the land was last occupied by a building that was used for agriculture. The development fails, on this point, against both the NPPF and Local Plan definitions.
- 8.8 There is no definition given of “derelict land” in either the Local Plan or NPPF. Where the term “derelict land” is used in the NPPF it is in the context of despoiled and degraded land. In the view of officers, the application land cannot be described as “derelict land” when giving an ordinary and natural meaning to the term. Whilst the land contains a ruinous building it is not seen as a degrading feature that causes visual harm. Rather, it is seen as a relic of the past, a remnant of a by-gone age, which has now assimilated into the landscape. The appearance of the land is primarily pastoral and cannot reasonably be regarded as “derelict”.
- 8.9 Even if the applicant’s argument is accepted, and the land is considered to be derelict and/or previously developed land, the development still would not automatically be acceptable in terms of the relevant Local Plan policy (SS9) as it must also be shown to not have a greater impact on the character of the countryside than the existing development as set out in policy SS9 para 1.f.
- 8.10 In addition to local policies, the NPPF para 84 indicates against the unjustified development of isolated homes in the countryside. Whilst there is a scattering of other dwellings in the area the new dwelling would be remote from main settlements and services (shops, schools, public transport etc) with access to it being via a network of narrow country lanes giving rise to reliance on motorised private transport. In such circumstances it is considered the development would be an “isolated” home in the countryside that would fail to accord with NPPF para 84.
- 8.11 Therefore, on this first issue, in the view of officers, the proposal is not acceptable in terms of the policies set out in the Development Plan because it does not involve derelict or previously developed land and does not fall within any other categories of acceptable development that will otherwise be supported. It is a development of a new dwelling outside of settlement

development limits, remote from local services and with no need to be in the countryside. If, in the alternative, the development is considered to involve derelict or previously developed land its acceptability depends upon whether or not it has a greater impact on the character of the countryside than the existing development. That matter is considered in more detail in the next section of this report.

Effect upon Landscape Character and Appearance

- 8.12 The landscape within which the site is located is of high quality. It is identified in the Local Plan as having primary sensitivity, with a primary AMES and, as such, is landscape that will most likely be negatively affected by change or development and where there should be a strong focus upon the protection of its environmental assets.
- 8.13 The Neighbourhood Plan states that the high quality landscapes of Ashover Parish are cherished by the community and play an important role in the local economy through recreation and tourism. As such, the landscape is considered to be “valued landscape” within the meaning of para 180a) of the NPPF. The NPPF states that decisions should contribute to and enhance the natural and local environment by “protecting” and “enhancing” valued landscapes.
- 8.14 The site is within a generally open and expansive landscape seen from a number of view points including from Hay Lane, from the public footpath to the north and across the valley from the B6036 to the north east. The application site, being a small pastoral field within an irregular field pattern defined by dry stone walls, hedgerows and trees on the gentle valley slope, contributes significantly to the landscape character and tranquillity of the area.
- 8.15 The new dwelling, along with the proposed buildings accommodating the domestic workshop and WC, would add significant built form on a site where presently there are only some parts of some walls of the former cottage remaining. The dwelling would sit within a newly formed residential curtilage where activities associated with day to day living (including vehicle parking, comings and goings, play and recreation etc) would take place. The curtilage land would likely take on a domestic appearance comprised of hard surfaced areas, flower beds, lawns, incidental structures and buildings and the general clutter of everyday living.
- 8.16 The new dwelling would also have impacts in the hours of darkness arising from its associated lighting. The site is located some distance from the settlement, away from any street lighting and within an area of relatively dark skies. Darkness is an inherent part of the rural character and tranquillity of the area and is important for nature conservation. The effects of external lighting for the new development could be mitigated to an extent and controlled by a planning condition. However, internal lighting could not be controlled but would have external visual effects.

- 8.17 In all these circumstances, on this second issue, it is considered by officers that the development would significantly detract from the gentle, soft and pastoral landscape character of the area, its dark skies and tranquillity. It would not protect or enhance this valued landscape and there would be significant landscape harm as a result. It therefore follows that the development would have a greater impact on the character of the countryside than the existing development, that matter being relevant to spatial strategy considerations as set out in para 8.11 above.

Other Issues

- 8.18 Whilst the former cottage has some local history interest the ruinous building is not considered to be of such merit as to qualify as a non-designated heritage asset and, in any event, would need to be removed in the main to facilitate the new dwelling. The County Archaeologist recommends that a record of the building and any finds is kept and deposited for future reference and interest. That matter could be dealt with by planning condition.
- 8.19 Ecology assessments have been undertaken. Ecology mitigation and measures to secure biodiversity net gain can be achieved by the imposition of planning conditions.
- 8.20 The proposal utilises an existing field access. Whilst there would be additional journeys to and from the new dwelling associated with day to day living activities the Highway Authority do not consider there to be “material” intensification in use such as to make this a decisive issue in terms of highway safety. Highway issues can be addressed by the imposition of planning conditions.
- 8.21 Any potential land stability and contamination issues can also be addressed by planning conditions. Additionally a planning condition could limit the use of the workshop/tractor store to storage of equipment for use on the land and to domestic incidental use only.
- 8.22 The associated land could provide an opportunity for home grown produce. With regard to construction the proposal would re-use stone from the former cottage and would incorporate renewable energy features such as solar tiling to the workshop roof and an air or ground source heat pump. Whilst recognising the contribution these features would make towards cutting greenhouse gas emissions it must also be taken into account that the more remote location of the dwelling would give rise to a need for longer motorised journeys to access shops, schools and services (for example) that would offset any sustainability benefits arising.
- 8.23 Any benefit to the local economy through the construction phase and through local spend going forwards would be marginal in the context of a single dwelling.
- 8.24 The proposal would make a very small contribution to the District’s overall housing land supply. However, housing delivery in the district is presently

exceeding targets and there presently is a 5.7yrs housing land supply. This consideration carries very little weight in these circumstances.

- 8.25 The applicant's local connections and skills as a craftsman and joiner, should not carry weight in the planning decision. The proposal, essentially, is for a market dwelling. Any planning permission would go with the land and there would be no limitations upon who might undertake the development or occupy the property going forwards.

Planning balance and conclusion

- 8.26 The interests of creating a sustainable pattern of development in the district, in accordance with the policies of the Local Plan is a consideration which (in the view of officers) carries substantial weight. However, the proposal fails on that matter.
- 8.27 The interests of protecting and enhancing landscape character is also, in the view of officers, a consideration of substantial weight, not least because of the landscape's high quality, primary sensitivity and the value placed upon it in the Neighbourhood Plan. The proposal fails on that matter also.
- 8.28 Any benefits of the proposal to housing supply, the local economy and sustainability benefits (e.g. sustainable construction/renewable energy benefits) carry no more than little weight in officers' opinion.
- 8.29 Matters that can be addressed by planning conditions weigh neither for nor against the proposal and are neutral considerations in the planning balance.
- 8.30 Overall, in the view of officers, the significant harm to the spatial strategy and landscape harm is not outweighed by any other considerations.
- 8.31 The development fails to accord with the development plan both in terms of the location of development and policies for protecting landscape character. The development plan points towards the refusal of permission. There are no considerations of sufficient weight to indicate a decision that goes against the development plan.
- 8.32 It is therefore concluded that the application should be refused.

9.0 Recommendation

- 9.1 It is recommended that the application be REFUSED for the following reasons with the final wording of any reasons delegated to the Planning Manager (Development Management):
- 1) The development would result in an unjustified new dwelling in the countryside remote from local services and some distance from the settlement development limits. As such the proposal is contrary to policy SS9 of the North East Derbyshire Local Plan, policy AP2 of the Ashover Parish Neighbourhood Plan and the spatial strategy of the

development plan read as a whole.

- 2) The development would detract from the gentle, soft and pastoral landscape character of the area, its dark skies and tranquillity. It would not protect or enhance this valued landscape and would result in significant landscape harm. The proposal is, thereby, contrary to policy SDC3 of the North East Derbyshire Local Plan and policies AP13 and AP19 of the Ashover Parish Neighbourhood Plan.