

PLANNING COMMITTEE – 20 FEBRUARY 2024

Reference Number: 23/00609/FL

Application expiry: 23/2/2024

Application Type: Full

Proposal Description: Proposed reconstruction of two storey dwellinghouse (private drainage system) (amended plans)

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: 6 February 2024

MAIN RECOMMENDATION: Refuse

ADDENDUM REPORT

1.0 Background

- 1.1 The attached report (Appendix A) and report update (Appendix B) were considered by Planning Committee at its meeting on 16 January 2024. A number of speakers addressed the Committee. Discussion followed around the meanings of “previously developed land” and “derelict” land and how policies are to be addressed. There was also discussion around the proposed workshop/tractor store building, external WC and the former cow byre element of the building and whether these elements were additional to the original footprint and, in the case of the cow byre element, whether the timber cladding proposed for its elevations was satisfactory.
- 1.2 The application was deferred so that further consideration could be given to these matters.

2.0 Amendments

- 2.1 Following discussion with the applicant, amended plans were received on 26 January 2024 which remove the originally proposed garage/workshop and external WC. The cow byre element, which is believed to sit upon an original footprint, is retained but is now shown to be constructed in stone to match the stonework of the proposed dwelling.

2.2 Extracts of the amended plans appear below:

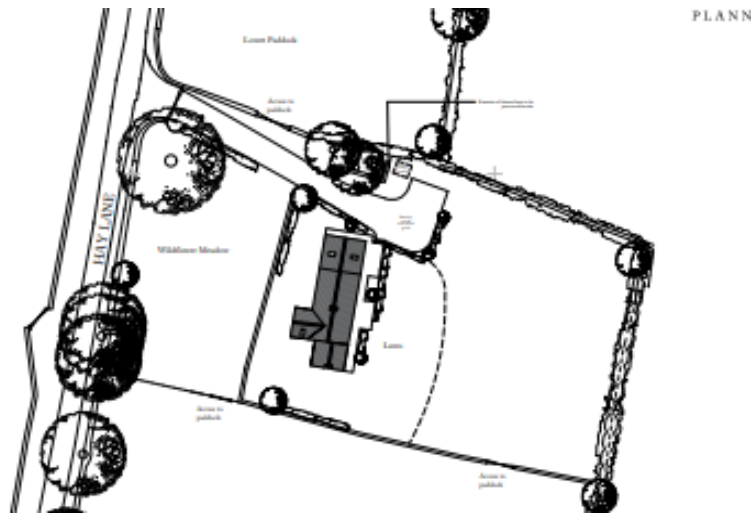


Figure 1: amended site plan



Figure 2: amended east elevation

2.3 Full re-consultation on the amendments has been undertaken with the consultation period running until 9 February 2024. An update will be provided prior to Committee to report upon any further consultation responses that have been received.

3.0 Appraisal

Approach to the decision

3.1 In approaching the decision the starting point is the development plan. Planning law requires that the decision must be made in accordance with the development plan unless material considerations indicate otherwise¹. The policies which are of relevance to this proposal are set out in section 7.0 of the appended (original) report.

¹ S38(6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990

3.2 The main issues to be decided upon in respect of the application remain:

1. Whether the development accords with the spatial strategy, with reference to the policies of the development plan; and
2. The effect upon the character and appearance of the landscape, with reference to the policies of the development plan.

Spatial strategy

3.3 The site is located outside of any settlement development limit and therefore within countryside where policies of restraint apply. Local Plan policy **SS9** sets out categories where development in the countryside could be permissible. Most of these categories are not applicable to the application proposal (see paras 8.3 - 8.4 of the appended report).

3.4 Another relevant spatial policy is Neighbourhood Plan policy **AP2** which is broadly consistent with policy **SS9** although it does not have a category for development on previously developed land or derelict land.

3.5 The applicant argues that the development falls within category **1.f.** of Local Plan policy **SS9** because the site is “previously developed land” and/or “derelict land”. 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.”

3.6 The NPPF definition of “previously developed land” is set out in para 8.6 of the attached report. In the view of officers, the site does not qualify as “previously developed land” and falls outside of the NPPF definition for the following reasons:

- (a) The land was last used for agriculture and is occupied by a building that was last in agricultural use i.e. the cow byre. Some interested parties recollect that the former cottage also was used as a shelter for farm animals and as a farm store when no longer used as a dwelling and, thus, was a building last in agricultural use;
- (b) The remains of the permanent structure had, over many years, blended into the landscape. The remains have only recently become more obvious because of works carried out to remove vegetation and clear the land and because of the metal frameworks now erected to prop up the walls. If nature was again to take its course then the remains of the structure would continue to blend into the landscape.

3.7 Notwithstanding the position on “previously developed land” the word “or” in **SS9 1.f.** indicates that a separate assessment should also be made as to whether the land is “derelict” land.

3.8 There is no definition of “derelict land” in the NPPF or in the Local Plan. The

following definition is taken from the National Land Use Database Report [NLUD] and dates from 2006. The NLUD defines “derelict land” as:

- *land so damaged by previous industrial or other development that it is incapable of beneficial use without treatment, where treatment includes any of the following: demolition, clearing of fixed structures or foundations and levelling.*
- *abandoned and unoccupied buildings in an advanced state of disrepair i.e. with unsound roof(s).*

It excludes:

- *land damaged by development which has been or is being restored for agriculture, forestry, woodland or other open countryside use.*
- *land damaged by a previous development where the remains of any structure or activity have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings), and where there is a clear reason that could outweigh the re-use of the site - such as its contribution to nature conservation - or it has subsequently been put to an amenity use and cannot be regarded as requiring redevelopment.*

3.9 The emphasis over recent years, for land use planning and statistics/data gathering purposes, has moved more towards “previously developed land” and the term “derelict land” is now not so well used. Nonetheless the above definition remains live and is used in other areas of administration (for tax and land remediation relief purposes for example) so the definition is considered to provide a useful aid to interpretation in this case.

3.10 In the view of officers the site does not qualify as “derelict land” under this definition because:

- (a) The land is not “so damaged” as to be “incapable of beneficial use without treatment” as it has already been brought into use for agricultural purposes (albeit agricultural use appears presently to be dormant);
- (b) The remains of the structure had blended into the landscape in the process of time and would do so again if nature takes its course;
- (c) The land cannot be regarded as “requiring development” as it already has a beneficial agricultural use (albeit dormant);
- (d) Its agricultural use is “clear reason” to outweigh the proposed “re-use” and development of the site for residential purposes.

3.11 The further pre-requisite of **SS9 1.f.** is that the development must “ not have a greater impact on the character of the countryside than the existing development.”

3.12 “Existing development” in this case must mean the existing situation of an agricultural field together with the remains of the former building and does not mean the cottage that existed in 1959 and that has long since fallen into ruin. The former residential use of the land has long since been abandoned.

3.13 The matter of effects upon the character and appearance of the countryside are covered in the following section and paras 8.12 – 8.17 of the attached report. In short, in the opinion of officers, the proposal (even in its amended form) would have a greater impact on the character of the countryside than the existing development and would, therefore, fail against this further requirement of policy **SS9 1.f.**

Character and appearance of the landscape and countryside

3.14 The amended proposal reduces the impact of the originally proposed development a little by removal of the workshop/tractor store and external WC. The cow byre element, now proposed to be constructed in stone, would be of a more traditional appearance albeit in residential use (a sitting room).

3.15 Whilst it is to be expected that there will be future pressure for incidental buildings (garden buildings, tool store, garage for example) permitted development rights could be removed by planning condition which would give the Council control (although not necessarily veto) over the extent and design of any incidental buildings that might later be permitted.

3.16 Nonetheless the development will still result in additional built form, a residential curtilage, day to day living activities upon the land, comings and goings, parking, lighting and domestication of the land.

3.17 The development would, in the view of officers, for these reasons have a greater impact upon the character of the countryside when compared to the existing situation of an agricultural field containing the limited remains of a former building. It would, thus, fail to accord with policy **SS9 1.f.**

3.18 For the same reasons, and as set out in paras 8.12 - 8.17 of the attached report, the development would also fail against Local Plan policy **SDC3: Landscape Character**, which only permits proposals for new development:

“... 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”.

3.19 Policies of the Neighbourhood Plan are also relevant to considerations of effects upon landscape. Policy **AP13** places a high value on the landscape of Ashover Parish and requires that development proposals demonstrate that they “...respect the distinctive landscape character of the area” and that they do not “...cause an unacceptable visual intrusion”.

3.20 In the view of officers the “distinctive landscape character” is that of softly rolling pastures and tranquillity. Whilst there is a small scattering of other dwellings these are properties of some longevity. The application proposal, involving the dismantling of what is left of the former building, would essentially result in the construction of a new dwelling. The landscape is not characterised by new build dwellings and domestic curtilages in spacious

plots.

3.21 Neighbourhood Plan policy **AP19** seeks to protect the dark skies of the Parish and is a further policy indicating against the development.

3.22 On this issue of landscape effects, in officers' opinion, there would be significant landscape harm.

4.0 Other matters

4.1 Officers have undertaken a sweep of the NPPF with regard to what it says about "derelict land". Nothing could be found that would support wholesale rebuilding of a dwelling in the countryside even if the site is found to be "derelict land".

4.2 It is understood that the proposal is for a "self-build" family home. Whilst the "self-build" aspect is a material consideration there is no exception made for "self-build" homes in the countryside (outside settlement development limits) in the Local Plan, Neighbourhood Plan or NPPF. Neither do "self-build" homes fall within the definitions of "affordable housing" or "specialist housing" where exceptions can be made for dwellings in the countryside. Any planning permission would go with the land. There would be no limitations upon future sale and occupation or, indeed, no mechanism to ensure the dwelling would in fact be "self-build" and first occupied by the applicant.

4.3 In the opinion of officers the proposal, essentially, should be treated as a new market dwelling in the countryside. The intended "self-build" aspect of the proposal should carry very little weight. Further, the applicant's local connections and skills should carry no weight in the planning decision.

4.4 Other considerations, including those relating to housing supply, local economy, and ecology are set out in paras 8.18 - 8.25 of the attached report.

4.5 Officers' view is that there are no material considerations that indicate sufficiently in favour of the proposal and that would outweigh the harm that would be caused to the spatial strategy and landscape harm.

5.0 Conclusions

5.1 The site is not "previously developed land" or "derelict land". The development would have a greater impact on the character of the countryside than the existing development. It would fail to accord with Local Plan policy **SS9** and Neighbourhood Plan policy **AP2**.

5.2 The development would not respect the distinctive landscape character of the area, would cause visual intrusion and significant harm to the character, quality, distinctiveness, sensitivity and tranquillity of the landscape. It would fail to accord with Local Plan policy **SDC3** and Neighbourhood Plan policies **AP13** and **AP19**.

- 5.3 There are no other considerations that would outweigh the harm to the spatial strategy and landscape harm.
- 5.4 The development would fail to accord with the development plan read as a whole.
- 5.5 It is therefore concluded, in the opinion of officers, that the application should be refused and as set out in the Officers original report.

6.0 Recommendation.

- 6.1 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.