

## PLANNING COMMITTEE – 20<sup>th</sup> February 2024

**Reference Number:** 23/01013/FL

**Application expiry:** 29/02/2024

**Application Type:** Full planning

**Proposal Description:** Retrospective application for the retention of extended patio and erection of front porch (previously refused application 23/00657/FL (Affecting a public right of way))

**At:** Tanglewood, Newmarket Lane, Clay Cross, Chesterfield

**For:** Mrs J Meredith

**Third Party Reps:** 17 support

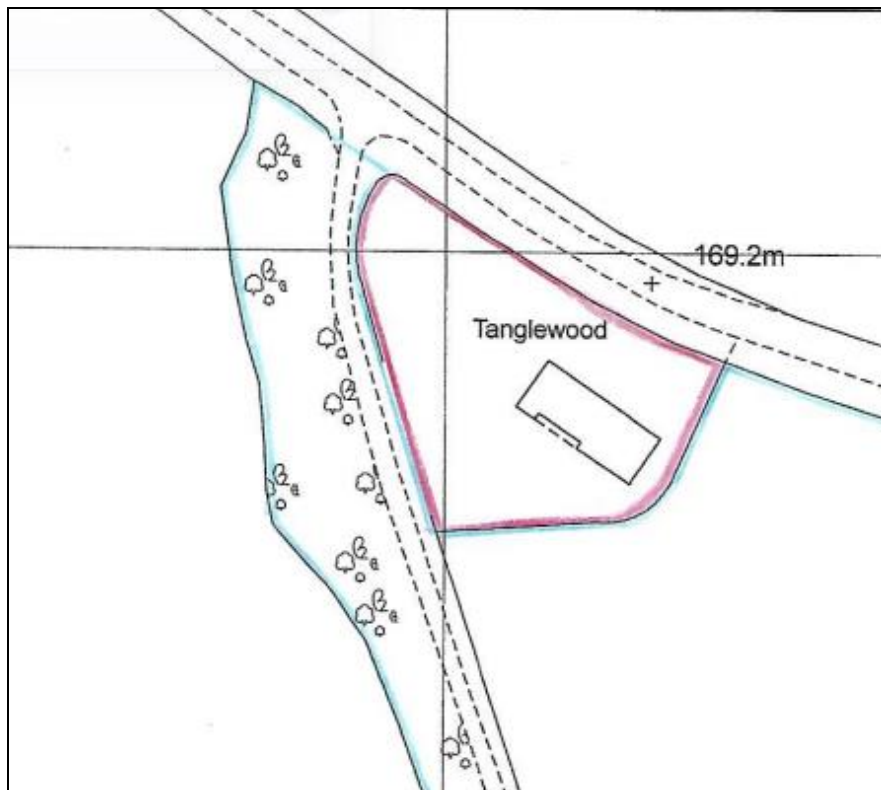
**Parish:** Clay Cross

**Ward:** Clay Cross North

**Report Author:** Kerry Hallam

**Date of Report:** February 2024

**MAIN RECOMMENDATION:** Refuse



*Figure 1: Location plan, with site edged in red*

## 1.0 Reason for Report

- 1.1 Cllr Morley requested that this application be considered by Planning Committee for the reasons set out in section 4.1 of this report.

## 2.0 Proposal and Background

### Site Description

- 2.1 The application site is located to the south of Newmarket Lane and to the east of the farm track which leads to Stretton Hall Farm to the South. The site lies outside of the defined Settlement Development Limits and is in open countryside designated a secondary Area of Multiple Environmental Sensitivity (AMES).
- 2.2 The application site is a property that was previously a dwelling known as Tanglewood. The property has recently been converted into a tea rooms under the terms of application NED/21/01226/FL.
- 2.3 Clay Cross bridleway 8 runs from Newmarket Lane south along the farm access track immediately to the west of the application site.

### Proposal

- 2.4 Planning permission is sought for the retention of a wrap-around patio and a porch that was not permitted by NED/21/01226. The front extension projects 2.5m from the front elevation with a width of 5m and an overall height of 4.8m. The patio wraps around the southern eastern corner of the building measuring 14m wide and 14m deep. Figure 2 illustrates the “as approved” situation in comparison to Figure 3 which shows the “as built” situation.



Figure 2: As approved scheme

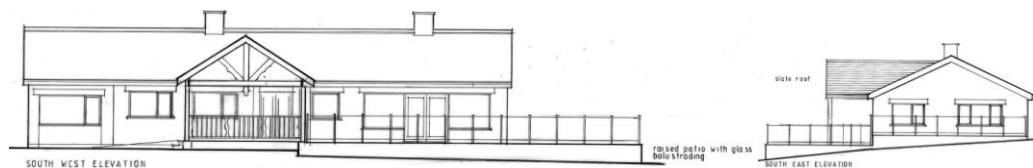


Figure 3: As built scheme

2.5 A previous application (23/00657/FL) for the retention of the extended patio, a larger car park than originally permitted and the front porch has been recently refused due to its overall and adverse impact on the character of the area. A subsequent application for alterations to the approved car park (a lesser scheme than constructed and submitted under NED/23/00657) was approved under NED/23/00905/FL. The current application, see Figure 4 below, seeks permission to now retain only the porch and patio area as constructed.

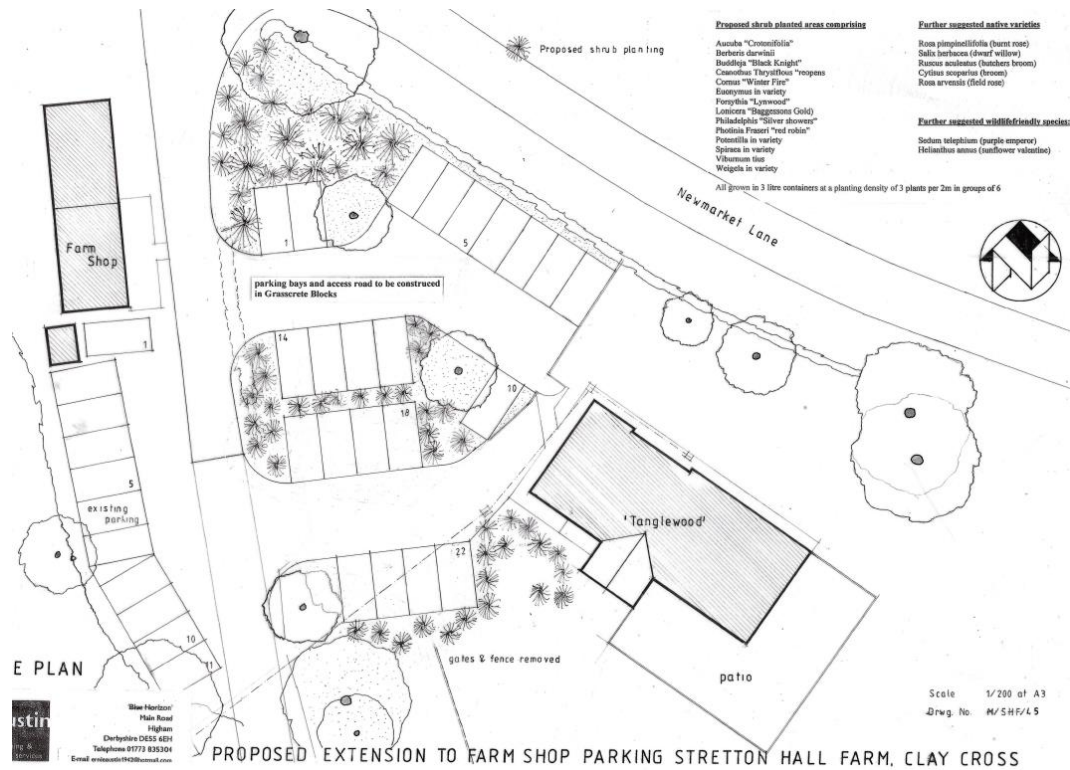


Figure 4: Extract of plans as proposed

## Amendments

2.6 None.

## 3.0 Relevant Planning History (not the full site history)

3.1 09/00519/FLH | Construction of extensions and alterations (Conditionally Approved – Permitted Development Removed)

3.2 21/01226/FL | Application for change of use and conversion from dwelling to tea rooms and provision of extended car park (Affecting a public right of way) (Conditionally Approved)

- 3.3 23/00657/FL | Retrospective application for retention of extended patio and car park and erection of front porch (Affecting a public right of way) (Refused)
- 3.4 23/00905/FL | Retention of extended car park and associated landscaping (previously refused application 23/00657/FL) (Affecting a public right of way) (Conditionally Approved)

#### **4.0 Consultation Responses**

##### **4.1 Ward Member – Cllr Morley:**

- The application is consistent with the Local Plan which allows a development such as this in the countryside if it involves small scale employment related to tourism and is necessary for the efficient or viable operation of what was a farming-based business. Were the application for the patio to be refused the viability of the whole business would come into question with the consequent loss of employment and loss of a valued local amenity.
- The development does not amount to a substantial intrusion into the countryside. Neither the patio area nor the porch are visible from the roadside. Whilst they can be seen from the adjacent bridle way it is only visible for a short section of its route. Other than the applicants own property no other property overlooks the site and in granting permission for the car park officers accepted that neighbouring properties were sufficiently far away as to be not affected by this application. As such the patio area in particular could not be said to have a harmful impact on the rural character of the countryside and local landscape.
- Planning permission has just been granted for an extension of the car park adjacent to the tearooms. The car park can be seen from the roadside, has a bigger impact on the character of the countryside, and yet has been found to be acceptable. The size of the car park rather than the size of the patio seating area will determine the number of vehicles and people who visit the location and to allow one application but to refuse the other on the grounds that it would change the character of the area seems contradictory.
- The location of the tearooms attracts and encourages walkers and cyclists to the area and is therefore consistent with the council's desire to encourage more people to engage in healthier activities.

##### **4.2 Parish Council – No comments received.**

##### **4.3 DCC Local Highways Authority (LHA) - It is noted this application does not refer to the other element of application 23/00657/FL which was in relation to the car park and associated landscaping, and was previously approved under application 23/00905/FL. As such, the LHA have no**

further comments to make pertaining to the extended patio and erection of front porch.

4.4 **Peak and Northern Footpaths Society** – No comments received.

4.5 **The Rambles Association** – Having considered the proposal we can see no reason why the adjacent bridleway, Clay Cross BW 8, should be adversely affected by the retention of the patio. As a consequence, we would offer no objection or further comment relating to the proposal as presented.

4.6 **DCC Rights of Way** – No comments received.

4.7 **Chesterfield Cycle Campaign** – No comments received.

4.8 **British Horse Society** – No comments received.

## 5.0 Representations

5.1 The application was publicised by way of neighbour letters and the display of a site notices. A site notice was placed adjacent to the application site on the telegraph pole at the front of the site which expired on 29.12.2023.

5.2 17 local residents have made representations raising the following comments supporting the proposed development:

- Support the retention of the patio
- Tea rooms have drawn people to the area and employed several local people
- The ambiance is also therapeutic for us & we enjoy sitting on the patio area which overlooks beautiful Derbyshire countryside and wildlife and we know many others feel the same
- To have the patio area reduced would be detrimental to the enjoyment of visitors and would in reality serve no purpose
- Proposal has social benefits and supports mental well-being
- Accessible by walking
- Accessible for wheelchairs and pushchairs
- Owners have a desire to reach and serve the community. They are a part of the community, live in the community and have families in the community.
- We should be supporting local independent business to grow
- Refusing the application would impact on the visitor economy/tourism and jobs
- Provided a valuable service during the COVID pandemic
- The patio and extension are not visible from Newmarket Lane and views from the bridleway are limited

- The use improves the welfare and health of the local community
- Rather than being an unacceptable intrusion into the countryside or an urbanisation, the facility opens up the countryside to the local community, encourages walking and cycling, and allows the community to enjoy the local landscape.
- The tearooms act as a valuable source for employment opportunities in the recreation and tourism sector within a short distance of Clay Cross.
- Development is sympathetic to the surrounding countryside
- Holmgate Evangelical Church uses the tearooms for a variety of events

## **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  
 WC5 Visitor Tourism Development  
 SDC3 Landscape Character  
 SDC11 Flood Risk and Drainage  
 SDC12 High Quality Design and Place Making  
 ID3 Sustainable Travel

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

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

## **7.0 Planning Issues**

### **Principle of Development**

- 7.1 The site is located outside of the defined settlement limits and within open countryside. Local Plan Policy SS1 directs development to suitable locations in accordance with other policies within the Local Plan.
- 7.2 Policy WC5 of the Local Plan considers Visitor and Tourism development. Proposals will be supported where they can demonstrate that a rural location is appropriate, is easily accessible, is appropriate to the site in terms of its scale, design or materials; and respects the character and appearance of the open countryside.
- 7.3 Policy SS9 supports small scale employment uses related to local farming, forestry, recreation or tourism. Where development is considered

acceptable, it will be required to respect the form, scale and character of the landscape, through careful siting, scale, design and use of materials.

- 7.4 As the site is located within a secondary Area of Multiple Environmental Sensitivity (AMES), Policy SDC3 also applies. Here, 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. Further, development proposals should be informed by, and be sympathetic to, the distinctive landscape areas identified in the Derbyshire Landscape Character Assessment and the AMES, and contribute, where appropriate, to the conservation and enhancement, or restoration and re-creation of the local landscape taking into account its wider landscape character type.

### **Design and Landscape Considerations**

- 7.5 Local Plan Policies SS9 and WC5 generally support small scale employment uses related to tourism but these policies also require the development to respect the form, scale and character of the landscape whilst policy SDC3 supports that stance requiring all new development to not cause significant harm to the character of the landscape with AMES having added protection.
- 7.6 The current application seeks permission to retain an unauthorised porch and patio area. A revised application for alterations to the originally approved car park was approved under application 23/00905/FL although a larger area still had been originally created as car parking. There has been no change to the design, size or scale of porch and patio area from the previously refused application (23/00657/FL).
- 7.7 The application site is located within open countryside which is characterised by its rolling agricultural landscape interspersed with farm complexes and small settlements. They tend to be nucleated in nature and contained such that any significant impact on the countryside is contained.
- 7.8 Officers consider that the development, the subject of this application, would extend the use beyond its originally approved area which is contained by the buildings and the road and by extending the patio southwards the use and the associated activity would spill out beyond that area and the enlarged porch would add unnecessary mass and scale to the otherwise simple building.
- 7.9 Officers conclude that this would represent an additional and overbearing urbanising impact on the local area through the additional built form and the intensification of the use beyond that already granted permission. The

ancillary and inevitable external activities associated with this use, such as increased activity and use of the patio would have a further urbanising effect which would be harmful to the character of the countryside and wider sensitive landscape.

- 7.10 It is noted that planning permission has been previously granted for a tearoom in this location and that this too has changed the area's character. However, the previous application(s) were permitted on the basis that the conversion of the building was supported by Local Plan Policy SS9 and the external alterations were limited to a small raised patio area (shown in figure 5 below) and a ramp and that the scale, design and siting of these were considered to retain the character of the existing building whilst allowing the site to be accessible.

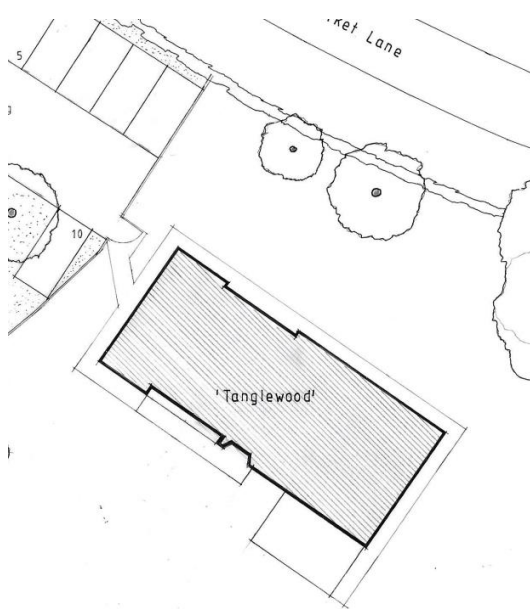


Figure 5: Patio as originally approved (21/01226/FL)

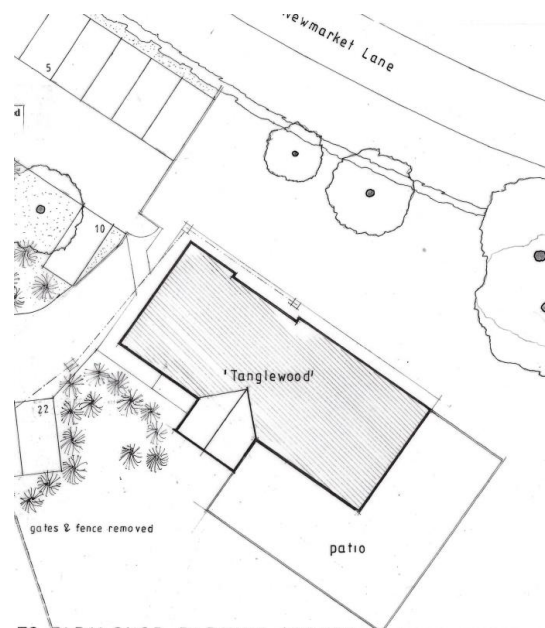


Figure 6: Patio as proposed (as built)

- 7.11 The current application seeks to retain the single storey front oak framed porch extension and wrap around patio (shown in figure 6 above). Given the siting of the extension and patio, views from Newmarket Lane would be partially screened but a public bridleway runs along the access track to the west and the site is readily visible from these public viewpoints. This ready public visibility adds to Officer concerns.
- 7.12 The principle of an outdoor patio has been established through the permission granted by the original application. However, the approved patio was much smaller in scale than that constructed and it did not extend beyond the south-eastern elevation of the building and so contained the



use and development. The current application seeks to retain a much larger patio which extends beyond the south-eastern elevation, into open countryside. It is this which Officers consider makes the current application unacceptable and adversely impacting on the area.

- 7.13 The site is located within the Derbyshire Peak Fringe and Lower Derwent Landscape Character Area with a 'Wooded Farmlands' landscape character type as described in the Derbyshire County Council Landscape Character Assessment (2013). Here the key characteristics of the area include undulating, intermediate landform with gentle slopes, scattered ancient woodlands, scattered hedgerow trees locally dense in places, dense tree cover along streams, small to medium irregular fields, curving lanes with irregular verges and scattered sandstone farmsteads and occasional hamlets. For the reasons outlined above, it is considered by Officers that the proposals would not be sympathetic to or contribute to the sensitive landscape character.
- 7.14 Local Plan Policy WC5 does support proposals for visitor and tourism development, however, subsection 2 of Policy WC5 states that in all cases proposals will be expected to respect local landscape character and the character and appearance of the open countryside; and respect the sites location through careful siting, scale, design and use of materials.
- 7.15 The larger patio is currently occupied by tables chairs and umbrellas and would be heavily used, as would be expected. The ancillary furniture coupled with the activity associated with it in such a prominent location would result in a form and activity that Officers consider would not respect the form, scale and character of the countryside and wider sensitive landscape.
- 7.16 The tourism, well-being benefits, and employment opportunities identified in representation are noted, however Officers are of the view that these benefits do not outweigh the harm outlined above. Officers do not oppose an outdoor patio area in principle and indeed have supported one already but the patio as originally approved was considered to be of an appropriate scale, design and design and contained development and activity within the grouping of buildings on the site.
- 7.17 Overall, due to the size and location of the proposals, Officers consider that the development would encroach into and adversely affect the open countryside and it does not respect the form, scale or character of the landscape. Additionally, increased comings and goings to the site and associated external activity would further erode the rural character of the area.

### **Privacy and Amenity Consideration**

- 7.18 Policy SDC12 of the Local Plan seeks to adopt general design principles which relate to scale, massing, height, layout and materials which respect the character and appearance of the application site and surrounding street scene.
- 7.19 It is considered by Officers that the increased parking and enhanced outdoor facilities will increase the overall use and impact of the site, but due to the separation distances between the site and noise sensitive receptors, along with a restriction to daytime opening hours, the proposal would not result in having a harmful impact on neighbouring amenity. Furthermore, due to the separation distance between the site and neighbouring residential properties Officers do not consider that there would not be any adverse privacy impacts.

### **Highway Safety Considerations**

- 7.20 The Local Highway Authority (LHA) have been consulted on the current application and have raised no objection. Additional parking has recently been approved under 23/00905/FL and the LHA raised no objection to the previous application 23/00657/FL. It is therefore considered that the porch and patio area would not result in an unacceptable impact on highway safety and wider highway network.

### **Drainage Considerations**

- 7.21 The site is located within flood zone 1 and therefore is considered to be at low risk of flooding. As such, no further consideration on this matter is deemed necessary.

### **Land Contamination/Land Stability Considerations**

- 7.22 The site is located within a low risk area for Coal Mining Activity. As such, no further consideration or assessment of this is required.
- 7.23 Officers conclude that there are no technical reasons relating to land contamination or land stability that would preclude development.

## **8.0 Summary and Conclusion**

- 8.1 Officers conclude that the extension (porch) to the front of the building and the extended wrap around patio along with the activity associated with it would extend the built development and the associated impacts away from the core of the development and into the open countryside. As such, it is concluded that this does not respect the form, scale or character of this sensitive landscape. In this respect Officers do not consider the

application appropriate and that it would be harmful to the character of the area. Officers place great weight on protecting the countryside from unacceptable and harmful forms of development and so attach significant weight to this impact and the protection of the character of rural areas.

- 8.2 Additionally, the increased activity associated with the patio area which occupies a sensitive location on the site add to Officer concerns.
- 8.3 The benefits arising from the operation of this successful business in the countryside are noted and it is clearly very popular. However, there is no suggestion here that the business would be stopped from trading, indeed, permission has been granted for it. Therefore, the additional potential benefits arising from an enlarged south facing patio are considered limited and are not considered to outweigh, in this case, the harm identified.
- 8.4 Accordingly, Officers conclude that the proposals fails to accord with Local Plan policies SS9, SDC3, SDC12, WC5 and so are unacceptable.

## **9.0 Recommendation.**

It is recommended that the application be REFUSED for the following reason with the final wording delegated to the Planning Manager (Development Management):

1. The application site is located outside of any defined settlement development limit in an area of countryside which is designated as an Area of Multiple Environmental Sensitivity. By reason of the scale and location of the extension and patio and the associated external activity proposed, there would be an unacceptable impact on the rural character of the area and the proposals would fail to respect, conserve, or enhance the distinctive local landscape with the impact exacerbated by the ready accessibility and visibility of the site from both the local highway and public rights of way network. As such, the impact of the character and appearance of the countryside would be harmful and is considered contrary to Policies SS9, SDC3, SDC12 and WC5 of the North East Derbyshire Local Plan and the National Planning Policy Framework.