

**APPLICATION NO.** 19/01082/FL

**APPLICATION** Redevelopment of large bungalow and outbuildings for 5no. small bungalows and related infrastructure

**LOCATION** Woodside, Hackney Lane, Barlow

**APPLICANT** Mr Derek Mapp

**CASE OFFICER** Adrian Kirkham

**DATE RECEIVED** 31<sup>st</sup> October 2019

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Councillor Huckerby

REASON: Barlow Parish Council are fully supporting this application for 5 small bungalows. There is an ageing population in the area – who are wanting to down size and still stay in Barlow

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The Committee Site Inspection Group is to visit the site to view the location of the site, note the site's location in the Green Belt and its proximity to the Special Landscape Area, assess the impact of the development on the character and appearance of the site and the surrounding landscape, its impact upon neighbouring amenity along with highway safety.

## 1.0 SITE DESCRIPTION

- 1.1 The site is located to the east side of Hackney Lane, the B6051, on the southern approach to Barlow. The area is locally known as Nesfield and it lies close to the District boundary with Chesterfield.
- 1.2 The site is located outside the settlement development limits for Barlow as defined in the North East Derbyshire Local Plan [LP] and therefore has the status of "countryside" for planning policy purposes. It is located within the North East Derbyshire Green Belt. The fields and woodland to the opposite side of the road (to the west of the site) are located within a Special Landscape Area [SLA].
- 1.3 The site presently accommodates a substantially extended bungalow and an associated detached garage, a driveway and areas of hardstanding, lawns and woodland areas to its periphery. There is also another smaller outbuilding located on the site's southern boundary.
- 1.4 There are some other dwellings in the general vicinity of the site to the north, south and east set within open fields and woodland.

## 2.0 PROPOSAL

- 2.1 The applicant seeks consent to demolish the existing bungalow and garage (and the additional garden building – although this is not depicted specifically on the submitted plans) and its replacement with 5no. bungalows (3no. of which have second storey living and other accommodation shown). They would be faced with natural stone and have slate roofs and be arranged around a private drive.

2.2 The application is accompanied by the following reports and information as follows:

- Ecological Survey and Assessment;
- Access Feasibility Report;
- Design and Access Statement;
- Planning Statement (plus addendum);
- Coal Mining Risk Assessment and Supplementary Report;
- Visually Verified Montage Report;
- Response to Landscape Briefing Note by Michelle Bolger;
- Tree Survey and Arboricultural Method Statement;
- D E Manley QC Legal Opinions (2no.);
- Access Feasibility Report;
- Land Contamination Assessment;
- Appeal Decision 3200416 (relating to Tanyard Farm, Lymm);
- Permitted Development Illustrative Scenario.

### **3.0 AMENDMENTS**

3.1 No amendments have been made to the application during the course of considering the application.

3.2 However, to assist in the assessment of the application the Council has sought advice on the potential landscape impact of the proposal. This has been the subject of additional comments subsequently from the applicant.

### **4.0 PLANNING HISTORY**

4.1 74/00045/FL: Filling of disused railway cutting and landscaping. Conditionally approved 2/10/1974.

4.2 85/00779/FL: Extensions to bungalow to form porch and hall, and extension to lounge. Conditionally approved 13/3/1985.

4.3 85/00780/FL: Extension to dining room. Conditionally approved 24/7/1985.

4.4 19/00440/FL: Application for 5no. bungalows. Refused 02.10.2018 for the following reason:

The development is unacceptable as it represents inappropriate development in the Green Belt. The development would have a negative effect upon the openness of the Green Belt and would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. It would also cause visual harm to the rural character and appearance of the countryside and adjacent Special Landscape Area. There are no considerations that clearly outweigh the harm. Very special circumstances have not been demonstrated. The proposal fails to accord with policies GS2, GS7, H3, N1 and N2 of the North East Derbyshire Local Plan and national policy for the protection of Green Belts and for protecting and enhancing valued landscapes as set out in the National Planning Policy Framework.

This application was a direct duplicate of the application now being considered by the Planning Committee.

## 5.0 PLANNING POLICY CONSIDERATIONS

5.1 The Development Plan comprises of the saved policies of the North East Derbyshire Local Plan (adopted November 2005). In addition, the Council is now at an advanced stage in the production of the Publication Draft Local Plan 2014-2034. This new Local Plan reflects national guidance as set out in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development. However, as the Plan is currently paused, Officers consider very limited weight should be attached to its policies although it does replicate the general exclusions to Green Belt development as set out in the extant Local Plan.

### 5.2 North East Derbyshire Local Plan 2005 [LP]

The most relevant policies of the North East Derbyshire Local Plan in respect to this application are:

GS1 – Sustainable Development  
GS2 – Development in the Green Belt  
GS6 – New Development in the Countryside  
NE1 – Landscape Character  
NE2 – Special Landscape Areas  
NE5 – Other Sites of Importance for Nature Conservation  
BE1 – General Design Principles  
H3 – Housing outside the settlement development limits  
H12 – Design and Layout of new housing  
T2 – Highway Impact of new development

### 5.3 North East Derbyshire Local Plan (2014-2034) Publication Draft [PD]

The most relevant policies of the Publication Draft Local Plan in respect to this application are:

SS1 – Sustainable Development  
SS2 – Spatial Strategy and the Distribution of Development  
SS9 – Development in the Countryside  
SS10 – North East Derbyshire Green Belt  
SDC3 – Landscape Character

### 5.4 National Planning Policy Framework [NPPF]

Chapter 13 of the NPPF sets out the government's policy for protecting Green Belt land. Paragraphs 143 -146 set out the approach for dealing with proposals affecting the Green Belt and state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 145 and 146 [of the NPPF] set out the various exceptions to inappropriate development in Green Belts.

5.5 Paragraph 8 sets out that sustainable development should, among other things, protect and enhance the natural environment whilst paragraph 170

sets out that planning decisions should recognise the intrinsic character and beauty of the countryside.

## 5.6 National Planning Practice Guidance [PPG]

The National Planning Practice Guidance advises that assessing the impact of a proposal upon the openness of the Green Belt requires a judgement based on the circumstances of the case. It says that the Courts have identified a number of matters which may need to be taken into account including (but not limited to):

- Openness (both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume);
- Duration of development;
- Degree of activity likely to be generated such as traffic generation.

## 6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

6.1 **Barlow Parish Council (PC)** – Support this repeat application and ask that the full planning committee consider the application as the land is already developed. The PC are mindful of Green Belt policy but do not see a problem with this application in that regard. The PC sees a solution to a poor quality road frontage site being replaced with a quality small development enhancing the openness of the Green Belt, well screened from the road. This progressive project is welcomed by the PC and [the PC considers it] enhances the area and it is recommended that planning permission is granted on this occasion.

6.2 **Ward Councillor:** Barlow Parish Council are fully supporting this application for 5 small bungalows. There is an ageing population in the area – who are wanting to down size and still stay in Barlow

6.3 **Yorkshire Water** – The proposal is in an area not served by the public sewer. The application should be referred to the EA and Environmental Health for comment on private treatment facilities. The agent has indicated surface water disposal to the main sewer. As there is no public sewer network available, the developer would need to look at alternative solutions for surface water disposal as per Building Regulations.

6.4 **DCC Highways** – No objections subject to conditions.

6.5 **Derbyshire Wildlife Trust** – No objections subject to the imposition of conditions in respect of lighting, management of invasive species, pre-development check on badger activity, measures to protect wildlife during construction, avoidance of the bird nesting season and implementation of the ecologist's recommendations for enhancement.

6.6 **The Coal Authority** – Falls within a Development High Risk Area. Further investigations are required post demolition. No objection subject to a planning condition.

6.7 **NEDDC Environmental Health** – No objection subject to conditions to address potential land contamination issues.

## 7.0 APPLICANT'S CASE

7.1 A significant amount of information has been submitted by the applicant in support of his application as set out at paragraph 2.2 above and the submitted documents may be considered in full [as required] by members ahead of the Committee meeting. However, in precis the applicant's planning case is as follows:

- This is a good opportunity to replace an oversize bungalow and an extensive curtilage with a greater number (albeit small) dwellings better suited to the locality
- Affordable housing is not proposed but house types which [the applicant believes] will enhance the locality and provide additional dwellings of a type popular locally.
- The site is previously developed land.
- The site forms part of Nesfield, containing a number of residential properties and Barlow is an otherwise sustainable community which can be accessed along a footway with easy access to bus stops.
- The site is not isolated.
- The creation of the additional units would not raise Green Belt issues and the site comprises a residential curtilage and has been for over 40 years.
- The 5 bungalows are not standard house types and have minimal impact visually respecting the openness required.
- The submitted verified visual montages prove the openness of the Green Belt is not compromised.
- The existing dwelling enjoys permitted development for various works. This is a material consideration that should be taken into account.
- The proposal is considered to be in accordance with the NPPF comprising a minor bespoke redevelopment of a previously developed well defined curtilage within a group of dwellings on the edge of a consolidated linear settlement. It would retain and have no greater impact on openness and protect the 5 purposes of Green Belt.
- The relevant saved Local Plan policies are out of date and thus have no weight. The PD cannot be given significant weight. [Notwithstanding that] the proposal accords with the PD.
- The proposal is in line with NPPF section 5 adding to the variety of land coming forward, will stimulate local services, is a sensitive redevelopment of previously developed land, is similar to subdividing the existing dwelling into 2 and accords with the spirit of the policy that encourages exceptional quality.
- Pre-application discussion has taken place [which the applicant considers] indicates there are no objections to the principle of redevelopment nor the potential additional dwellings but stated an overall increase of 70% was unacceptable and no account should be taken of permitted development rights. As a consequence opinion was sought from David Manley QC which concluded the applicant's approach was correct.
- Unanimous support for the previously refused application was received from the local Parish Council. The decision notice on that application is flawed and further advice from David Manley has been taken as follows:
  - (i) Draft notes of a meeting held with Mr Kirkham have not been accepted as a true record, no amendments have been put forward and his notes of the meeting not provided. Mr Manley concludes

the policy references were incorrect, incorrectly referred to, immaterial and makes casual reference to policy issues.

- (ii) The Case Officer's approach to the issue of curtilage in the delegated report is legally flawed.
  - (iii) Mr Kirkham's approach to para 145(g) was incorrect.
  - (iv) All this reveals a narrow focus in the minds of Officers in taking the original decision.
  - (v) There is no engagement with the issue of visual perception, and,
  - (vi) The reference to a valued landscape is unevidenced and unreasonable. The costs of dealing with this on appeal should be recoverable.
- Mr Kirkham subsequently met the applicant on site to view it. He concluded he will not assist the applicant by identifying what he considers curtilage, he will not indicate a scale of development he believes consistent with the NPPF, he has indicated an intention to refuse any subsequent application under delegated powers regardless of Mr Manley's points, he had offered to meet to discuss a scale down scheme but the applicant has no idea what he has in mind and it is a very disappointing outcome and particularly given the appeal that will be lodged at the applicant's expense with costs racking up quickly given the front loaded basis on which appeals have to be lodged nowadays.
  - The Council can grant permission for this popular development in accordance with the NPPF, there are no material considerations to justify a refusal, the Council should consider this application very carefully given the resource implications for the parties and the Council's exposure to an application for an award of costs, the applicant remains available to discuss Mr Kirkham's concerns, the montages have not been challenged at any stage and permission should be granted.

7.2 Additionally, and as referred to above, the Council has sought advice on the potential impact of the development on the openness of the Green Belt and any landscape harm. In reply to that work the applicant has submitted his own note which concludes:

- There is no explanation of the methodology used in the assessment undertaken
- The assessment does not fully consider the details submitted and concludes an impact that is greatly overstated.
- The conclusions are based on two receptors only, views from Hackney Lane (predominantly from traffic passing the site) and does not account for the speed of movement and the transient nature of the visibility, and from footpaths to the west where the assessment fails to provide an assessment as to the frequency of use.
- No reference is made to the mitigation proposed which is to introduce new tree planting and enhance the setting in the landscape, and,
- The degree of change between an existing situation and the redevelopment is negligible.

## **8.0 PLANNING CONSIDERATIONS**

8.1 The primary planning considerations for the application are whether the proposal is appropriate or inappropriate development in the Green Belt; and if the development is inappropriate, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other

considerations in favour of the proposal so as to amount to very special circumstances necessary to justify the development.

- 8.2 Additionally, the site is located in the countryside, the intrinsic character and beauty of which should be recognised. The site is located adjoining a Special Landscape Area. Therefore, the impact of the development on the countryside and the SLA should properly be assessed and evaluated.

## **9.0 PLANNING ASSESSMENT**

### ***Introduction***

- 9.1 The Applicant is seeking consent to demolish 2/3 existing buildings, a bungalow, a detached garage and garden shed, and replace them with 5no. new bungalows and associated infrastructure including car ports (although no specific details of these structures have been submitted) and access roads. All the units would be served off a single vehicular access point joining the highway network, with a secondary pedestrian access being retained.
- 9.2 The site is located within the Green Belt and outside the settlement limits defined for Barlow in the Local Plan. It lies on the opposite side of the road from the Special Landscape Area and within an otherwise generally attractive landscape.
- 9.3 The Council's extant Development Plan (2005) pre-dates the NPPF (2019). Whilst the relevant policies are, for their most part, in general conformity with it, policy GS2 of the LP does not wholly reflect the wording of the NPPF, in particular it does not include the potential redevelopment of previously developed land [PDL] within its exceptions.
- 9.4 Policy SS10 of the PD is in close conformity with the Framework but carries only very limited weight due to the stage the plan is at currently. Therefore, it is considered that the NPPF paras 143-146 carry the greater weight and that consideration of the proposal should follow that approach.

Therefore, the main issues for consideration are:

- (a) Whether the proposal is inappropriate development in the Green Belt; and
- (b) If the development is inappropriate, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations in favour of the proposal so as to amount to very special circumstances necessary to justify the development.
- 9.5 In addition, and as set out above, a full assessment of the proposal should be undertaken in respect of its location in the countryside and adjoining a SLA. The policies of the LP in this regard are considered commensurate with the NPPF and so should carry full weight.

### ***Whether inappropriate development in the Green Belt***

- 9.6 The NPPF states that new buildings in the Green Belt should be regarded as inappropriate but also lists a number of exceptions to this (para 145). None of the exceptions listed in a) – f) of para 145 apply to the circumstances of this

case and the applicant does not reply on them in seeking to justify his case. The exception upon which the applicant relies is that listed at para 145 g), that being the “partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.”

- 9.7 Within this exception there are two main elements to consider. Firstly it is necessary to consider whether the land upon which the development is to take place is PDL. Secondly it is necessary to consider whether the development would have a greater impact on the openness of the Green Belt than the existing development. Both parts need to be satisfied in order for the development to fall within this exception. This approach is consistent with the case put forward by the applicant.

### ***Whether PDL***

- 9.8 NPPF Annex 2 Glossary defines PDL 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 curtilage should be developed) and any associated fixed surface infrastructure.”

- 9.9 Excluded from the definition is (amongst other things) “...land in built-up areas such as residential gardens...”. The term “built-up areas” is not defined in the NPPF so a judgement has to be made and when taking into account the considerable spacing between the few scattered dwellings in the locality and the predominance of fields and woodland it is considered that the area of the application site cannot be regarded as a “built-up” area. Neither do any of the other exclusions to the definition of PDL apply to the circumstances of this case.
- 9.10 Recent case law has indicated that whether or not land is within the curtilage of a building/dwellinghouse is a matter of fact and degree but the decision maker should make that decision following a consideration of the site, its physical layout, its ownership, past and present, and its use or function, past and present.
- 9.11 Therefore, it does not necessarily follow that the application site, or all of it, falls automatically within the definition of PDL. It is necessary to go back to the definition to determine whether the site in whole, or any part of it, is to be considered as PDL.
- 9.12 Part of the land is occupied by the bungalow and garage which are clearly interdependent. These are permanent structures and, hence, Officers consider these parts of the site to be properly PDL. There is associated fixed surface infrastructure (driveways and hard standings) also closely associated with the dwelling and these parts of the site are also considered to be PDL. The definition extends to the “curtilage of the developed land”. However, when taking into account the extent of the site, the configuration of the buildings, the distance of some parts of it from the dwelling and fact that all the site has historically not made up a single entity, Officers conclude that the PDL definition should not be considered to extend across the whole of the site, in particular to the woodland and lawned areas to its southern and



eastern parts. Thus it is considered that, in any case, parts of the proposed development would be on land outside of the PDL.

- 9.13 Therefore, on this point alone, Officers conclude that the application fails the test of appropriateness in that new built form would extend beyond the extent of the curtilage to the dwelling.
- 9.14 The applicant has submitted legal opinion on this matter raising issue with the Council's approach and is of the view that the site comprises residential curtilage and has been for over 40 years. However, Officers note that what constitutes the curtilage in any particular case is a matter for the decision maker to conclude on and that nothing raised by the applicant is at odds with the Officer approach or their conclusions on the facts of this case as reasoned above notwithstanding that the bungalow and its garden constitute one enclosure.

### ***Effect upon openness***

- 9.15 The second part of the para 145 g) requires an assessment of the effect of the development upon the openness of the Green Belt.
- 9.16 When having regard to the relevant documentation, the PPG, case law and the applicant's own legal opinion it is acknowledged that the concept of "openness" is open textured and is not narrowly limited to a volumetric approach. A number of factors are capable of being relevant in any particular case and will probably include both spatial and visual aspects (amongst other things). Additionally the NPPF makes no prescription as to volumes and areas (or indeed visual aspects) or whether such matters need to be taken into account in every case. The assessment of the effect upon openness in any particular case, and the factors to be taken into account, is also a matter of judgement for the decision maker.
- 9.17 In this case the proposed development is of a permanent nature. It is considered that the assessment of effect upon openness should take into account volume, footprint and visual effect.
- 9.18 Looking at the matter firstly from a spatial perspective, it is readily apparent that the new structures will extend the built form into areas where there is currently no development. Therefore, from a purely spatial perspective it has to be concluded there is, and must be, an impact on openness.
- 9.19 However, as set out by the applicant and case law, there is also a visual assessment of the proposed development that needs to be undertaken. A useful starting point in this regard is the volumetric calculation between "as is" development (347 square metres floor area/1245 cubic metres volume) including outbuildings) and that "proposed" (652 square metres and 2500 (approx.) cubic metres – although it is unclear if this includes the proposed car ports). Using the applicant's own figures as set out above and in the submitted planning statement there is a projected increase in floor area of at least 88% with a volumetric increase of at least just in excess of 100% (although this is reduced if based on the volumetric evidence used by the applicant's lawyer (652 square metres and 2163 cubic metres) to 73%). Officers consider this to be a significant increase (when taking any of the applicant's measurements) in any case.

- 9.20 However, as set out in the applicant's submissions it is considered appropriate and necessary to consider how that translates visually, as would be seen through the eyes of an observer.
- 9.21 Views of the site are mainly, but not exclusively local (rather than longer distance). The main public viewpoints are from Hackney Lane (along the site frontage, from the carriageway and footpaths to either side) and from the public footpaths on the rising land to the west (opposite side of the road). The site can also be seen in private views from the adjacent field and Nesfield Villas to the north, in glimpses from the track to the south and, of course, from within the site itself.
- 9.22 The site also has a degree of visual containment being screened by its woodland in views from the east and, to an extent, in views from the south. Other trees and its boundary frontage wall also provide some degree of screening.
- 9.23 From Hackney Lane the presenting view is that of the original bungalow which fronts Hackney Lane in close proximity to it. There is an impression of building(s) and/or an extension to the rear although, essentially, the site appears to be that of a modest bungalow set within extensive open grounds. The impact of the existing development is further limited by its design, its main roof axis being parallel to the road, which reduces any impact, and its clustered arrangement.
- 9.24 The proposed development, from a number of points, would provide for views into the depth of the site including at the point where the private drive meets Hackney Lane as the site frontage would be opened up. An arrangement of bungalows would be seen, each with its own garden area, walls/fences, drive, garage, parking and other domestic items associated with domestic living arranged around a surfaced shared driveway. The dwellings would be seen against the backdrop of woodland but would give the impression of a site largely developed as a small residential estate. In this regard the development would affect openness negatively when compared to the existing situation of a single bungalow with a consolidated footprint in extensive grounds.
- 9.25 In views from the public footpaths on rising ground to the west (this land being within the SLA) the original bungalow to the site frontage is predominant with the roof of the extended part to the rear also being visible together with the surrounding extensive grounds. However, currently the bungalow due to its specific design, most notably the orientation of the roof slopes, and its height appears recessive in the immediate locality.
- 9.26 As shown in the submitted visual montages, the proposed development would appear, as it is, as a collection of smaller dwellings with some gaps between but giving the impression of, essentially, a developed site with the extensive grounds of the existing consolidated bungalow being lost. In addition, the height of the new structures would exceed that of the existing buildings, as they have a proposed ridge height of 5,5 metres as opposed to the current heights estimated as between 4 and 4.5 metres. Again the effect upon openness would be negative.

- 9.27 In private views from the land to the north, and as glimpsed through the trees in views from the south, the proposed bungalows would be seen in closer proximity to the northern and southern boundaries than the existing bungalow, each with its own separate back garden, fencing, garden buildings and other domestic paraphernalia (e.g. play equipment, washing etc.) all of which would have a negative effect upon openness in these views.
- 9.28 There are also views from within the site itself that need to be taken into account. From here the development would be seen and experienced by occupiers and visitors and they would not experience any Green Belt openness perceiving an intensive form of development of bungalows, each with its own separate curtilage, across much of the site. The visual effects upon openness would be negative when compared to the existing situation of looking out from the existing consolidated built form of the bungalow across extensive areas of open land and woodland towards the site boundaries.
- 9.29 The applicant has set out in his submission why he considers the visual impact of the proposed development would not be greater than the existing situation. He states that its impact is reduced by being moved built form away from the main highway, by forming smaller more open and separated individual elements spaciouly located across the site, using levels and existing trees whilst also retaining an inviting entrance and a cluster of dwellings around a central area. In particular, the applicant states that the height of the buildings are commensurate with the existing structures on the site using lower floor levels, the natural slope of the site, introducing earth banks, stone walls and planting to soften the impact of the development. He also states that the design of the dwellings will reduce their impact and a green buffer retained around the perimeter of the site. Montages are submitted seeking to support this contention.

In his rebuttal to the Council's landscape advice the applicant identifies that the ridge heights of the proposed dwellings will be no higher than the height of the existing dwelling. However, this justification is based on the new locations of the dwellings and how they will sit in the site whereas in reality the height of the ridges will be up to 1.74 metres higher than the existing dwelling.

The case for the applicant is noted by Officers. However, none of these issues, either alone or cumulatively, alters the Officer view on the proposal's impact on openness. In particular, the montages are depicted in summer during full leaf and so it is considered underplay any potential visual impact that there would be from the development.

The spatial impact of the development is clear, introducing new development where currently there is none, whilst the proposal will open up the site, introduce more and higher structures across it, increase the amount of onsite activity and seek to artificially soften the scheme.

- 9.30 When taking into account all these factors, from both a visual and spatial perspective it is considered, that the effects upon the openness of the Green Belt from the development would be negative.

### ***Conclusions on whether inappropriate***

- 9.31 Officers conclude that part of the proposed development would be on land that is not PDL. Even that element of the scheme that would be set upon PDL, by reason of its scale and massing, would impact negatively on the openness of the Green Belt.

In addition, and notwithstanding this, even if it were concluded that all the site was properly PDL, the overall impact of the scheme on the openness of the Green Belt, both spatially and visually, would have a greater impact on the openness of the Green Belt. Therefore, the development does not fall within the exception at para 145g) and amounts to inappropriate development in the Green Belt.

### ***Green Belt harm***

- 9.32 As inappropriate development, the application proposal would be harmful to the Green Belt by definition. Additionally it would have a negative effect upon openness (as reasoned above) and would conflict with the Green Belt's purpose of safeguarding the countryside from encroachment. The NPPF para 144 indicates that "any" harm to the Green Belt must carry substantial weight.

### ***Other (non-Green Belt) harm - effect upon the character and appearance of the surrounding countryside***

- 9.33 The site is considered to lie within a landscape of high value, a gently undulating landscape characterised by mature trees, sloping fields and woodland, field boundaries defined by dry stone walls and hedgerows with a scattering of farmsteads and other dwellings.
- 9.34 In views (as identified in the consideration of openness above), including those from within the SLA, the development would appear as a small residential estate of some formality with dwellings (each having its own domestic curtilage) arranged around a private drive with its associated parking, lighting, garden landscaping and other items associated with day to day living. The development would be of suburban rather than rural character and appearance and would not reflect the more scattered, sporadic and organic nature of the existing built development (such as it is) in the vicinity and the otherwise rural, agricultural and wooded character and appearance of the landscape. Its impact would not be assisted by the loss of a number of trees.
- 9.35 Overall, and as concluded in the work undertaken on behalf of the Council the overall impact upon the local landscape character would be moderate/major adverse. In these respects there would be significant harm to the character and appearance of the landscape and SLA. This adds to the Green Belt harm.
- 9.36 The applicant does not agree with this conclusion and states that the existing bungalow is currently visible, views of the site are filtered by existing trees, an assessment of the frequency of use of the nearby footpath network has not been undertaken or been taken into account, the positive aspects of the scheme have not been given sufficient weight, overall ridge heights should be used (see above), views into the site from the highway network would be

limited due to the speed with which traffic would pass it, the boundary screen will be more effective, greater weight should be placed on the mitigation strategy and the new dwellings will fully integrate into the landscape context.

None of these points, whilst noted, alter the Officer view. In particular, the fact that the applicant is seeking weight to be placed on a mitigation strategy and boundary screening to justify the proposal suggests that the development will adversely impact on openness, and, adversely, the character of the area. There is also no need to assess how frequently the footpath network is used. That the development will impact on how that network is experienced is a material matter and Officers can testify that on site visits it is clear that the footpath network is in operational use.

### ***Whether very special circumstances***

- 9.37 Because there is Green Belt harm, carrying substantial weight, together with other landscape harm, permission must be refused unless that harm is clearly outweighed by other considerations in favour of the proposal and which amount to very special circumstances.
- 9.38 The proposal would, as a windfall site, make a marginal contribution towards housing supply (4 additional dwellings). However, in circumstances where the Council can demonstrate a more than adequate 8.6 years housing land supply, this consideration carries extremely limited weight.
- 9.39 It is argued that the development would contribute towards growth, would be easily accessible to the village and would bring benefits in terms of supporting facilities in the village. These benefits, arising from only four additional dwellings, would be marginal at best and carry very little weight.
- 9.40 The applicant has suggested that significant development could take place on the site based on permitted development rights and that this could provide a legitimate fall-back position. However, little detail has been given of this and no Lawful Development Certificate has been sought.

In respect of the suggested porch and side extensions, it is unclear how these would relate to the existing floor space, what the extensions would be used for and whether all the permitted development criteria would be complied with.

One of the extensions would block the existing access which raises the question of whether there is any realistic prospect of it being built. In respect of the garden buildings, those annotated “garden dining room/kitchen”, “home office” and “bar” would provide primary living accommodation and would not, in any case, be regarded as “incidental” buildings in any case.

To be Class E development the buildings must be “required” for incidental purposes but there is no evidence of why buildings of this number and size are reasonably “required”. Additionally it is uncertain whether some of the buildings would fall within the curtilage of the dwellinghouse (curtilage being the small area about the dwelling). These developments, if they are permitted developments at all, are at best only a theoretical possibility. In all these circumstances it is considered very little weight can be given to this purported fall-back position.

- 9.41 Reference has been made to an appeal decision (Tanyard Farm, Lymm) in which development was found to be not inappropriate based upon the visual aspects of openness. That decision, which is untested by the Courts, was made in very different circumstances to those of this application. The site concerned was of degraded and unsightly appearance, containing a range of commercial uses and buildings (of greater footprint than proposed) and adjoining the settlement development boundary. The Council had already made an assessment that the site was weak in terms of its Green Belt purpose. Additionally, (as the proposal involved affordable housing) it was assessed under a different exemption against a test of “substantial harm” to openness i.e. a higher threshold of harm than would apply to this current application. The decision on this application must be made taking into account its own facts and circumstances.
- 9.42 A number of issues, such as those relating to land contamination, land stability, highway considerations, ecology, surface water disposal and private treatment facilities for example, could be addressed by planning conditions. However, these are neutral factors in the decision and do not overcome the fundamental objections to the proposal.
- 9.43 The applicant appears to place weight on the bungalows meeting a local demand. However, tellingly it is not stated that the dwellings are otherwise affordable or how any mechanism would be used to deliver these realistically for a local market. Realistically, the units would be for the open market and as such, Officers consider very little weight can be afforded to this issue. Ultimately, local demand for this type of property is not a planning matter. Whilst reflecting the local vernacular in terms of materials and some of the architectural detailing the development cannot be justified as being of “exceptional quality” (under para 79 NPPF) not least because of its discord with landscape character and appearance.
- 9.44 There are no considerations that either singularly or collectively clearly outweigh the harm and Officers conclude that very special circumstances are not demonstrated.

## **PLANNING BALANCE AND CONCLUSION**

- 9.45 On the main issues it is concluded that the development is inappropriate development in the Green Belt because it extends beyond the PDL and does not preserve openness in any case. The development is, thus, harmful by definition, has negative effect upon openness and conflicts with the Green Belt’s purpose of safeguarding the countryside from encroachment. Substantial weight should be given to any Green Belt harm. Other harm arises in terms of visual effects upon landscape character and appearance and the visual amenity of the adjoining SLA.
- 9.46 Whilst contributing to housing supply, that contribution is extremely marginal in circumstances where the Council can demonstrate 8.6 years housing land supply. This consideration carries very little weight and the delivery of housing within the Green Belt should in any case generally not be considered an overriding factor.

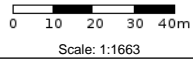
9.47 Officers also consider that other considerations including those concerning support to local facilities, growth and permitted development possibilities carry very little weight and there are no considerations that clearly outweigh the harm to the Green Belt by reason of inappropriateness, and other harm resulting from the proposal. Very special circumstances do not exist. The proposal fails to generally accord with the policies of the Development Plan.

9.48 It is therefore concluded that permission should be refused.

## **10.0 RECOMMENDATION**

10.1 It is recommended that permission be **REFUSED** for the following reason:

1. The development is considered unacceptable as it comprises inappropriate development in the Green Belt. The development would have a negative effect upon the openness of the Green Belt by reason of both spatial and visual harm and would conflict with the Green Belt purpose of safeguarding the countryside from encroachment. It would also cause a significant degree of visual harm to the rural character and appearance of the countryside and adjacent Special Landscape Area due to the uncharacteristic pattern of development proposed and the loss of roadside trees. There are no considerations that clearly outweigh the harm and very special circumstances have not been demonstrated. The proposal fails to accord with policies GS2, GS6, H3, NE1 and NE2 of the North East Derbyshire Local Plan and national policy for the protection of Green Belts, for protecting and enhancing the natural environment and recognising and responding to the intrinsic character and beauty of the countryside as set out in the National Planning Policy Framework.



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