

**North East Derbyshire District Council**

**Planning Committee**

**10 March 2020**

**Development Management Applications**

**Report No PM/21/19-20/AK of the Planning Manager – Development Management**

This report is public

**Schedule of Planning and Other Applications under the Town and Country Planning (General Development Procedure) Order 2015, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012**

**FOR THE INFORMATION OF MEMBERS**

**Legal and Financial Implications**

Members are advised that there may be legal and financial implications arising from determination of planning and other applications and the authorisation of enforcement action.

There is a right of appeal against a refusal of planning permission or the imposition of conditions on a planning approval, which may attract an award of costs against the Council. Preparation of the District Council's case in such appeals may necessitate expenditure on legal advice or Counsel.

Breaches of planning control, such as unauthorised development or the unauthorised use of buildings and land, or failure to comply with conditions may be redressed by the District Council's powers to take enforcement action. Such action may lead to possible further action in the Magistrates' or Crown Courts which may involve expenditure on legal advice and costs.

There is a right of appeal against the service of an enforcement notice. If any appeal is upheld it may attract costs against the Council.

**Human Rights Act 1998**

The reports consider decisions by the Council which may affect property rights of the owner (Article 8 and Article 1 may be relevant). Under the Human Rights Act 1998 the Council must be in a position to show:

- its action is in accordance with clearly established law
- the objective is sufficiently important to justify the action taken
- the decisions taken are objective and not irrational or arbitrary
- the methods used are no more than are necessary to accomplish the legitimate objective
- the interference impairs as little as possible the right or freedom

All action taken in considering applications, consents, and enforcement is the lawful duty of this Authority as Local Planning Authority. Decisions are objective and proportional being based on consideration of the National Planning Policy Framework and the policies contained in the North East Derbyshire Local Plan and all other material considerations.

There is a right of appeal against all decisions made by the Council.

### **Environmental Considerations**

There are environmental implications arising from the determination of planning applications and the authorisation of enforcement action. The consideration of the development of any site seeks to take into account the need to safeguard the environment, and the relevant issues are dealt with in each case in the Planning Assessment and Summary.

### **Community Safety Implications**

Members are advised that there are Community Safety Implications arising from the determination of planning applications.

Crime prevention is capable of being a material consideration in the determination of planning applications as set out in the National Planning Policy Framework. Where relevant these matters are addressed in each case in the Planning Assessment and Summary.

The safety of development sites is the responsibility of the site's operative and enforced by specialist agencies.

Issues with regard to highway safety are relevant to the determination of planning applications. These issues where relevant are addressed in each case in the Planning Assessment and Summary with the relevant advice of the Highway Authority incorporated in the report.

### **Background Papers**

The background papers relating to each application are the application forms, plans, representations received and replies to consultations, contained in the application file, the reference of which is given at the head of each report.

### **With reference to applications made for works to Protected Trees**

#### **Financial Implications**

The prescribed format when a Tree Preservation Order is made includes a section which makes provision for the payment by the Local Planning Authority, subject to such exceptions and conditions as may be specified in the Order, of compensation in respect of loss or damage caused or incurred in consequence of:-

- (a) the refusal of any consent required under the Order; or
- (b) the grant of any such consent subject to conditions.

Liability for compensation may be avoided by the Local Planning Authority in relation to trees which are subject to a Tree Preservation Order made prior to 2<sup>nd</sup> August 1999, and incorporating the appropriate wording, where in refusing consent or imposing conditions on

an approval the Local Planning Authority are satisfied that their decision is in the interest of good forestry or that the tree(s) has/have an “outstanding” or “special” amenity value, unless the Council’s assessment of the amenity value of the Tree(s) is successfully challenged.

### **Legal Aspects**

Once an Order is made, applications for consent are required in respect of any proposed cutting down, topping, lopping or uprooting of any trees. There is a right of appeal to the Secretary of State against the decision of the Council to either refuse consent or grant permission for works subject to condition.

### **Environmental Considerations**

The making of a Tree Preservation Order, and the subsequent control of works to trees covered by Orders are likely to benefit the local environment through the contribution of the protected tree(s) to visual amenity and the retention of their ecological value. The assessment of all applications for consent for works balances this with the need for the works proposed.

### **Trees (Community Safety Implications)**

The health of a protected tree and its safety remain the responsibility of the tree’s owner, even where the tree is covered by a Tree Preservation Order. If a tree is dead, dying or dangerous, works to rectify the danger may be undertaken without the consent of the District Council.

The safety and health of a tree covered by a Tree Preservation Order is a material consideration in the determination of any application to undertake work to a protected tree. However, this has to be balanced against all other material factors when considering any particular submission.

**DEVELOPMENT MANAGEMENT APPLICATIONS INDEX**

<b>PARISH</b>	<b>APPLICATION NUMBER</b>	<b>TITLE</b>	<b>PAGE NUMBER</b>
CLAY CROSS	NED/19/01107/FL	Proposed residential development comprising 21 dwellings (revised scheme or previously approved 18/00273/FL) (Major Development) (Amended Title) at Watercress Farm, Watercress Lane, Clay Cross for Woodsett Homes Limited.	<b>21 - 37</b>
KILLAMARSH	NED/19/00713/FL	Application for erection of 8 semi-detached and 5 detached bungalows, associated highway works, access, car parking, landscaping and outdoor amenity space. (Major Development) (Additional Information) at The Old Station, Station Road, Killamarsh, Sheffield for Mr T Rusling – Akroyd & Abbott.	<b>38 - 57</b>
HOLMESFIELD	NED/19/00786/FL	Demolition of a range of existing buildings (formerly used in association with the livery business and riding school); conversion of existing buildings (formerly used in association with the livery business and riding school) to form a single dwelling; restoration and retention of ancillary buildings; and erection of four new dwellings with associated landscaping, parking and access (conservation area/affecting a public right of way) at Cartledge Hall Farm, Cartledge Lane, Holmesfield, Dronfield for Mr Matthew Jacques c/o Crowley Associates Ltd.	<b>58 - 77</b>
ASHOVER	NED/19/01179/FL	Regularisation of Engineering Works consisting of the re-levelling of an agricultural field (Retrospective Application) at Field to the North of Grange Barn, Milken Lane, Far Hill, Ashover for Mr Hollingworth c/o the Agent.	<b>78 - 85</b>