

APPLICATION NO. 19/01179/FL**APPLICATION** Regularisation of Engineering Works consisting of the re-levelling of an agricultural field (Retrospective Application)**LOCATION** Field to the North of Grange Barn, Milken Lane, Far Hill, Ashover**APPLICANT** Mr Hollingworth C/O The Agent**CASE OFFICER** Mrs Emily Cartwright**DATE RECEIVED** 14th March 2017

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Councillor Armitage
REASON: Concern relating to toxicity.

1.0 SITE DESCRIPTION

- 1.1 The application site forms an agricultural field on the edge of the village of Ashover, beyond the defined Settlement Development Limit within open countryside that is designated as a Special Landscape Area.
- 1.2 Accessed from Milken Lane to the south, the agricultural land is open in character and slopes up gently towards Grange Farm and Grange Barn. Beyond these properties the land rises steeply towards Hillside and the ridge beyond.
- 1.3 The application site is screened to the north and east by mature trees, with public viewpoints from the south and south east only. To the east is an outdoor sports facility and hardstanding associated with Eastwood Grange.
- 1.4 A public right of way (PRoW42) is situated to the south east of the application site, running from Milken Lane the footpath diagonally crosses the open agricultural land towards Farhill.

2.0 PROPOSAL

- 2.1 The retrospective application seeks approval for the regularisation of engineering works to re-level an agricultural field to the north of Grange Barn, Ashover.
- 2.2 The excavated topsoil has been moved from one agricultural field to the south west of Grange Barn to an agricultural field to the north of Grange Barn. The maximum increase in levels indicate a depth of 70mm.
- 2.3 It is acknowledge that the moving of topsoil from one area of farm land to another on the same agricultural holding can be done without requiring planning permission, under Part 6 of the General Permitted Development Order (GPDO). This is subject to the prior notification of the Local Planning Authority. In this case, prior notification was not undertaken, as such planning permission is required.

3.0 AMENDMENTS

3.1 No amendments have been made.

4.0 PLANNING HISTORY

- 4.1 17/00200/OL – Outline application (with all matters reserved) for the construction of 10 bungalows to wheelchair user standard M4 (3) with access taken from Milken Lane (Major Development/Departure from Development Plan/Affecting setting of a Listed Building) (Conditionally Approved)
- 4.2 19/00868/RM – Application for approval of reserved matters for access, appearance, landscaping, layout and scale pursuant to outline approval 17/00200/OL for construction of 10 bungalows to wheelchair user standard M4(3) (Major Development/Departure from Development Plan/Affecting setting of a Listed Building) (Amended Plan) (Conditionally Approved)

5.0 PLANNING POLICY CONSIDERATIONS

5.1 The most relevant policies of the North East Derbyshire District Local Plan are:-

GS1 Sustainable Development
GS6 Open Countryside
NE1 Landscape Character
NE2 Special Landscape Area

5.2 The Council is now at an advanced stage in the production of a new Local Plan (Publication Draft) (LPPD) which reflects national guidance in the NPPF and would provide for the development needs of the district for the period 2014-2034. The Plan was submitted to the Secretary of State at the end of May 2018 and undertook examination earlier this year. The document sets out the Council's strategy for sustainable development and should be afforded limited weight in decision making. It is currently paused.

5.3 The most relevant policies contained in the Local Plan (Publication Draft) include:

SS1 Sustainable Development
SS9 Development in the Countryside
SDC3 Landscape Character

5.4 The Ashover Neighbourhood Plan 2016-2033 (Adopted November 2017) covers the application site and the following policies are a material consideration:

Policy AP2: Development Proposals outside the Limit of the Development
Policy AP13: Landscape Character

5.5 The overarching planning policies contained in the National Planning Policy Framework (NPPF) are also significant material planning considerations

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

- 6.1 The application was validated on 02.12.2019 and was due to expire on 26.01.2020, however an extension of time was agreed until 13.03.2020 to allow the application to be decided at committee. A site visit was undertaken by the case officer on 17.12.2020 and a site notice was placed on the telegraph pole adjacent to The Black Swan public house car park which expired on 07.01.2020.
- 6.2 The **Parish Council** raised no comments.
- 6.3 The **Local Ward Member** raised concerns regarding the toxicity and asked the application to be dealt with by members of planning committee.
- 6.4 The **Council's Environmental Health Officer (EHO)** reviewed the information submitted and note that they hold no specific evidence to indicate the concentrations of lead encountered on the source site will differ significantly from those encountered on the site subject of the current application, both of which are used for agricultural purposes. As such the EHO raised no objections to the regularisation of the engineering works consisting of the re-levelling of the agricultural field which comprises of an area of 0.4hecatres.
- 6.5 The **Environmental Agency (EA)** was consulted on the development and notes that the site lies fully within Flood Zone 1 and therefore have no fluvial flood risk concerns relating to main river flooding. There are no other environmental constraints associated with the site and therefore have no further comments to make.
- 6.6 The **Lead Local Flood Authority (LLFA)** was consulted on the application and due to the nature of the application they confirmed that they had no comments to make.
- 6.7 **Derbyshire Wildlife Trust (DWT)** was consulted on the application, however no comments have been received.
- 6.8 A number of objections have been received from two neighbouring residents which can be summarised as follows:
- The submitted document site plan A4 is hand drawn, which should be discounted as it is clearly not accurate. The before levels are not a true representation, and the amount of spoil used in the engineering works exceeds the area and depth shown on the diagram. (*Officer Note: The information submitted is considered sufficient to allow members to assess the proposal and determine the application.*)
 - Section 3.1 states "This application seeks to regularise the engineering works consisting of re-levelling part of the agricultural field with topsoil removed from the same site", this statement is factually incorrect as the top soil has been imported from a neighbouring field and not the same site. (*Officer Note: The description reads "Regularisation of engineering works consisting of the re-levelling of an agricultural field." It is considered that this is an accurate description of the proposed development.*)

- Contamination of the imported top soil as the site where the spoil originated is a well-documented and proven site of lead veins and historical mining, with a requirement to have a contamination survey conducted. There is no mention to how this possible contamination may now be washed to lower levels of land towards Grange Barn, Grange Farm and towards the village of Ashover and into the water table. There has been no submitted mitigation to such risks. *(Officer Note: The Councils EHO and the EA have raised no objection to the proposed development.)*
- There is no evidence of any engineering reports showing the stability of the newly laid topsoil, how it was undertaken and if best practice was undertaken. *(Officer Note: The application site is in excess of 100m from the nearest property and the depth of soil re-levelled out on site does not exceed 70cm. Furthermore, no objections have been received from consultees.)*
- The area is prone to surface flooding and there is no submission of any drainage or flood alleviation, the area is location in a flood zone where the Environment Agency have noted concerns. *(Officer Note: The application site falls in a Flood Zone 1, with a low risk of flooding. No objection has been raised by the LLFA or EA.)*
- Part 10 – The applicant has stated that there are no trees or hedges on the proposed development, when there are hedges and trees on site as such a full tree survey may be required. *(Officer Note: A full tree survey was not deemed necessary in the determination of this application.)*
- Part 12 – Biodiversity and Geological Conservation, there is a very healthy badger community with several sets in the adjacent area to this site. I would be very surprised if badgers are not present here. *(Officer Note: No comments/objections have been received from the DWT. Badgers are protected by law and so are the setts (burrows) they live in.)*
- The document entitled “Land Profile Images” appears to be ruler traces over images taken from “Google Earth”. These pictures do not seem to provide any value whatsoever and any accuracy is obviously dubious. I have created a Google Earth comparison which shows the line between points on the application site, the image taken from 2019 and 2010, the elevation profile is exactly the same. This reinforces my observation that the document is wholly inaccurate. *(Officer Note: The documents provided by the applicant should be read as a whole and it is considered that sufficient information has been provided to determine this application.)*

6.9 It is noted that a number of other objections have been raised, however these were not considered to be material to the application. These objections are viewable on the planning portal.

7.0 PLANNING CONSIDERATIONS

7.1 The planning considerations for this application are the visual impacts on the surrounding countryside, ecological impact and residential amenity.

8.0 PLANNING ASSESSMENT

Principle of Development

- 8.1 Local Plan Policies GS6 and NE2 cover the countryside and Special Landscape Area, where development will be supported where it does not detract from the surrounding landscape and the siting, scale, design, landscape treatment and the use of materials would be in keeping with the special character of area. Furthermore development will be permitted providing it would not have a detrimental effect on the visual amenity, character and function of the Special Landscape Area.
- 8.2 The Ashover Neighbourhood Plan (ANP) is a material consideration when determining planning applications. The ANP identified the importance of the landscape character of the area, and that each development will be required to demonstrate that it respects the distinctive landscape character of the area.
- 8.3 In view of the above, it is considered that development may be acceptable, subject to assessing the visual impact of the engineering works on the surrounding countryside, ecological impact, as well as that on residential amenity.

Impact on Character of Countryside and Special Landscape Area

- 8.4 The application site is located in open countryside which is designated as a Special Landscape Area (SLA). The SLA was identified in 1988 as part of the core documentation associated with the creation of the then Local Plan process. The site is also covered by the National Character Area 50 'Derbyshire Peak Fringe and Lower Derwent' (NCA50). Whilst the site forms part of a locally designated landscape it is not subject to any national landscape designation.
- 8.5 Whilst it is noted that the engineering works have altered the contours of the landscape in parts, by reason of its nature and minimal physical change it is considered that the development has caused no visual or landscape harm. The distinctive features that contribute towards and add value to the landscape of the area have been retained and character of the open countryside and Special Landscape Area have been protected.

Impact on Neighbouring Residents and Land Uses

- 8.6 The nearest residential properties to the application site are Grange Barn and Grange Farm are located approximately 115m to the south. To the east of the site is an outdoor sports facility and hardstanding associated with Eastwood Grange, however it is screened from the application site by mature tree planting.
- 8.7 Due to the scale and nature of the engineering works, it is not considered that the development would be of any detriment to the amenity of neighbouring residents or neighbour land uses.

Land Contamination Considerations

- 8.8 Concerns have been raised relating to possible land contamination from the imported topsoil.
- 8.9 The Council's Environmental Health Team (EHO) was consulted on the application, and have confirmed that there is no specific evidence to indicate that the concentrations of lead encountered on the source site will differ significantly from the site subject to this application, both of which are used for agricultural purposes.
- 8.10 In view of EHO not raising objections to the application, it is Officers views that the re-levelling works are acceptable.

Ecology and Biodiversity Considerations

- 8.11 Further representations make reference to a healthy badger community adjacent to the site and lack of tree survey accompanying the application.
- 8.12 Derbyshire Wildlife Trust (DWT) was consulted on the proposal, no comments have been received. A Preliminary Ecological Appraisal was submitted during the course of the outline application (17/00200/OL) for 10 dwellings, where it was concluded that there were no badger setts within the site from where the soil was taken. There is no evidence before Officers to suggest that there are badger setts on the current application site. Nevertheless, badgers are protected and so are the setts (burrows) they live in under separate legislation.
- 8.13 With respect to trees and hedgerows, the area affected by the engineering works do not include any trees or hedge. It is therefore, not deemed reasonable to require a tree survey in this case.

Flooding and Drainage Considerations

- 8.14 Representations have raised concerns that the area is prone to surface flooding and lack of submission of any drainage or flood alleviation.
- 8.15 The site is within a Flood Zone 1, which has a low probability of flooding (land assessed as having a less than 1 in 1,000 annual probability of river flooding).
- 8.16 The Environment Agency was consulted on the application, they have confirmed that due to site located within a Flood Zone it is not necessary or reasonable to require the above mentioned details and that there are no other environmental constraints associated with the site.
- 8.17 The Lead Local Flood Authority was also consulted; due to the nature of the application they raised no comments.
- 8.18 As no objections have been raised by statutory consultees, Officer do not consider that a condition requiring further drainage works would be necessary.

Conclusion

8.19 Overall, it is considered that the regularisation of the engineering works consisting of re-levelling the agricultural field represents acceptable development as the visual amenity and character of the open countryside and Special Landscape Area have been retained and protected. The proposal complies with the requirements of the relevant Policies of the North East Derbyshire Local Plan and the National Planning Policy Framework.

8.20 The retrospective development is therefore considered to be acceptable

9.0 SUMMARY OF CONSULTATIONS

Environmental Health: No objections

Environment Agency: No objections

Derbyshire Wildlife Trust: No comments

Lead Local Flood Authority: No comments

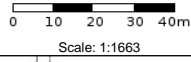
Neighbours: Objections received

Ward Member: Objections and called into committee

Parish Council: No comments

10.0 RECOMMENDATION

That planning permission is APPROVED with no conditions.



Author: K. Spelman

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