

## PLANNING COMMITTEE – 25 August 2020

**REFERENCE NUMBER:** 20 / 00166      Application Expiry Date:  
Application Type: Outline application (all matters reserved)

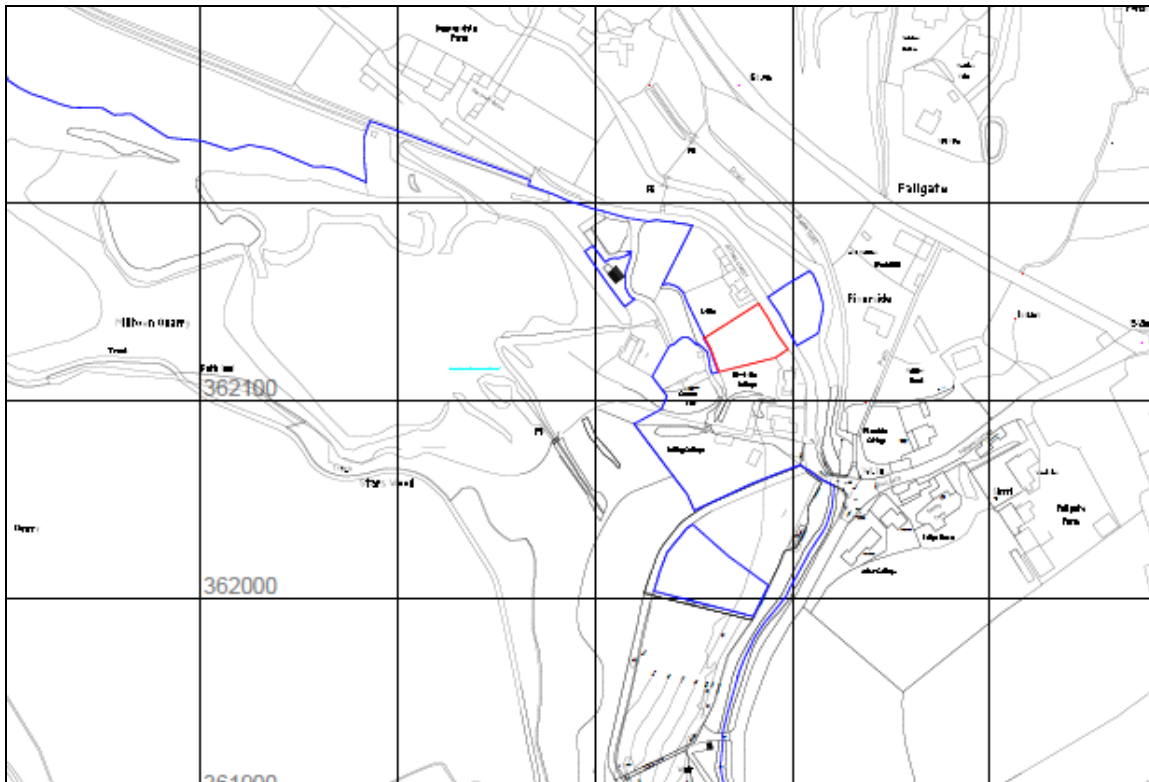
**Proposal Description:** Outline application (all matters reserved) for the erection of one detached dwelling (affecting setting of a listed building)  
**At:** Land between Overton Lodge and Brookside Cottage, Fallgate, Milltown  
**For:** Stenfold Resources Ltd

**Third Party Reps:** Parish: Ashover Parish Council  
Ward Name: Ashover

**Author of Report:** Emily Cartwright

**Date of Report:** 10 August 2020

### MAIN RECOMMENDATION: REFUSE



## **1.0 Reason for Report**

- 1.1 Local ward member Councillor Armitage has formally requested that it be considered by members of planning committee because it is a pretty sensitive site and because we have already passed the rest of the sites. f

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site forms a plot of land which has been cleared to the south of Overton Lodge and the north side of Brookside Cottage. The site fronts onto Jetting Street to the east and the land slope up steeply to the west.
- 2.2 Jetting Street runs from Fallgate to the countryside to the north. A number of listed building lie in an elevated position on the hillside to the west, including Common Bank Cottage and Commonbank House. These properties are accessed via a steep track which leads from Jetting Street.
- 2.3 Jetting Street also doubles as a Public Right of Way (PRoW 60) and Bridleway (136). It is also the former route of the Stretton and Ashover Light Railways.
- 2.4 The River Amber lies to the eastern side of Jetting Street, with a footpath (PRoW 143) crossing the river further to the north of Fallgate. A small section of the eastern part of the application site sits within Flood Zone 2 and 3.
- 2.5 The site is located within open countryside which is designated as a Special Landscape Area. It also sited within Stars Wood and Milltown Quarry which a special designated Local Wildlife Site (NE300).

### **Proposal**

- 2.6 Outline permission is sought for a detached house, with all matters reserved. An indicative layout plan is included.
- 2.7 The indicative layout shows one dwelling accessed off the west side of Jetting Street. Positioned centrally in the site frontage, with two parking spaces accessed at the southern end of the site.
- 2.8 The application is accompanied by a Planning Statement, Off- Site Biodiversity Enhancement Survey and Reptile Survey.

### **3.0 Relevant Planning History**

- 3.1 03/00082/OL – Outline application (all matters reserved) for erection of single dwelling (REFUSED)
- 3.2 Beyond the site to the north-west there have been various planning permissions granted for new dwellings. These consist of a plot of land adjacent to the north west of Overton Lodge (18/00384/OL and 19/00910/RM) and a plot to the junction of Jetting Street and the land to Common Bank House (17/01359/OL).

### **4.0 Consultation Responses**

- 4.1 The **Parish Council** and **Local Ward Member** raised no comments
- 4.2 County **Highways Authority** raise concerns relating to the emerging visibility sightlines for the parking area. Whilst noting the outline nature of the application, the agent provided a revised indicative site plan was submitted to address the visibility issues and to demonstrate how the site can be developed. The HA have acknowledge that whilst Jetting Street is not ideal, the reasons are more inconvenience issues rather that safety issues and therefore raise no objection subject to suitably worded conditions.
- 4.3 The **Councils Environmental Health Officer** raised comments regarding the location of the site adjacent to a former quarry use and there are elevated concentrations of lead in soils associated with the underlying geology in this area there is the potential for land contamination to be present. As no supporting information has been submitted with the application in relation to potential land contamination we are requesting the following pre-commencement conditions to ensure the site is suitable for its proposed use in accordance with paragraph 178 of the National Planning Policy Framework (NPPF) 2019.
- 4.4 **Derbyshire Wildlife Trust** (DWT) reviewed the submitted preliminary ecological assessment, off site biodiversity enhancement plan and subsequent reptile survey. The details provided were considered to undertake best practice and the plan provides an acceptable basis for securing biodiversity enhancements, as such DWT raise no objections subject to suitably worded conditions.
- 4.5 The **Environment Agency** (EA) withdrew their initial objection on the grounds that the flood zones are misaligned and given the fact that the site lies at a level significantly above the river it is not considered to be at risk from flooding.

- 4.6 The **Lead Local Flood Authority** (LLFA) raised concerns on the basis that the site falls within flood zones 2 and 3. As confirmed by EA the site does fall within flood zones 2 and 3 due to mapping errors. Following discussions with the LLFA it was agreed that due to the outline nature of the application drainage issues can be satisfactorily addressed via site investigation and drainage scheme conditions.
- 4.7 **Severn Trent Water** were consulted, however no comments have been received

## **5.0 Representations**

- 5.1 The application was publicised by way of neighbour letters and the display of a site notice
- 5.2 Three letters of representation have been received from two residents. Two of the letters raise concerns relating to a parcel of land on the opposite side of Jetting Street, which is outside of the applicants ownership. The third letter fully supports the recommendations made within the Off-site Biodiversity Enhancement Scheme report.

## **6.0 Relevant Policy and Strategic Context**

### **North East Derbyshire Local Plan (Adopted November 2005)**

- 6.1 The following policies of the Local Plan are material to the determination of this application:

GS1 Sustainable Development  
GS6 Open Countryside  
H3 Housing Development Outside SDL  
H12 Design and Layout of New Housing  
NE1 Landscape Character  
NE2 Special Landscape Area  
NE3 Protecting and Managing Features of Importance to Wild Flora and Fauna  
NE7 Protection of Trees and Hedgerows  
BE1 General Design Principles  
BE9 Development in the Vicinity of a Listed Building  
T2 Highway Access and the Impact of New Development  
T9 Car Parking  
T5 Walking and Cycling  
CSU4 Surface and Foul Water Drainage  
CSU6 Contamination Land

## **Emerging North East Derbyshire Local Plan (Under Examination)**

- 6.2 The emerging Local Plan (eLP) was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications. It is expected that this consultation will take place in the autumn with Plan adoption by the end of 2020.
- 6.3 The emerging Local Plan is therefore at an advanced stage and should be attributed appropriate weight in decision making.
- 6.4 The following emerging Local Plan policies are material to the determination of this application:
- SS1 Sustainable Development
  - SS9 Development in the Countryside
  - SDC2 Trees, Woodlands and Hedgerows
  - SDC3 Landscape Character
  - SDC6 Development Affecting Listed Buildings
  - SDC11 Flood Risk and Drainage
  - SDC12 High Quality Design and Place Making
  - SDC14 Land potentially affected by Contamination or Instability

## **Ashover Neighborhood Plan**

- 6.5 The Ashover Neighborhood Plan (ANP) was adopted on 9 February 2018. The following policies should carry weight in any decision:
- AP2 Development Proposals Outside SDL's
  - AP11 Design
  - AP13 Landscape Character
  - AP15 Important Trees and Hedgerows
  - AP16 Dry Stone Walls
  - AP19 Dark Skies

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

- 6.6 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. The main sections are covered in the assessment below.

## **Other Material Planning Considerations**

- 6.7 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities have special regard to the desirability of preserving Listed Buildings including their setting.
- 6.8 Successful Places Interim Planning Guidance, adopted December 2013.

## **7.0 Planning Issues**

### **Principle of Development**

- 7.1 The proposed site is located outside of any defined Settlement Development Limit (SDL), falling within a countryside location, designated as a Special Landscape Area.
- 7.2 Local Plan Policy GS1 states that all development proposal will be located within the defined SDL's, unless the development is acceptable in the countryside, or overriding exceptional circumstances are demonstrated. The purpose of the SDL's is to restrain development in the countryside and to focus development upon sites within the SDL's and/or allocated sites to achieve a sustainable pattern of development. Unrestrained housing development is not considered acceptable development in the countryside. Policy GS6 states that new development will only be supported where it is in keeping with the character of the countryside and should not represent a prominent intrusion into the countryside.
- 7.3 Local Plan Policy H3 sets out the very limited circumstances in which proposals for housing may be permitted, such as the change of use of existing buildings, dwellings that are essential for the operation of an agricultural or other rural based use, replacement dwellings or affordable housing on rural exception sites. This proposal does not fall into any of these categories.
- 7.4 The saved Policies GS1, GS6 and H3 were formulated based on SDLs that were drawn up with the intention to address development needs up to 2011. The policies are more restrictive in their terms than the policies in the NPPF. As such, they are considered out of date in respect of how they limit housing development, and are therefore given significantly reduced weight.
- 7.5 The Council is now at an advanced stage in the production of a new Local Plan (eLP) which reflects national guidance 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 and should be afforded weight in decision making. The emerging local plan retains the SDL's and the application site remains outside of the SDL for Ashover. Furthermore, the Ashover Neighbourhood Plan does not propose to extend the SDL around Fallgate, and the application site remains outside of any defined SDL.

- 7.6 The eLP policy SS9 and SDC3 seeks to safeguard the countryside from inappropriate development. It is noted that due to the position of the site located between two existing dwelling, it could be considered to be infill development. Policy SS8 of the eLP states that development will be restricted to limited infill development allocated by an adopted Neighborhood Plan. Fallgate is a level 4 settlement (very small village and hamlet with very limited sustainability). The Ashover Neighbourhood Plan does not include this site as an allocated infill site, and accordingly does not fall into this category.
- 7.7 The Ashover Parish Neighbourhood Plan (APNP) was made on 26th February 2018, and now carries full weight in the decision process. Policy AP2 is relevant to this development as the policy states that outside of the settlement limits of Ashover, Kelstedge and Littlemore it will be treated as open countryside. Policy AP2 seeks to protect the countryside and strictly control development, market housing is not one of the exceptions. The Neighbourhood Plan also contains a policy supporting windfall development (AP3) however it seeks to ensure that the development would be within the defined development limits of Ashover, Kelstedge and Littlemore. It is considered that the development proposal has no support from the Ashover Neighbourhood Plan.
- 7.8 The NPPF sets out that a general presumption in favour of sustainable development and that planning permission should be granted without delay where the development plan is absent, silent or relevant policies are out of date, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the NPPF when taken as a whole or specific policies in the Framework indicates development should be restricted. (paragraph 11).
- 7.9 The Council is in a position to demonstrate a 7 year housing supply and this position has generally been accepted by Planning Inspectors considering recent housing appeals. However, development proposal are to be assessed against the 3 dimensions of sustainable development (NPPF Paragraph 8) which relate to environmental, economic and social strands.

- 7.10 The construction of one dwelling would deliver short term benefits through the construction phase and some limited ongoing benefits as a result of the spending capabilities on one additional family to the area generally. However, one additional dwelling is not considered to make a significant contribution to the Council's housing land supply, and so should be afforded very limited weight in this case and it would offer little to enhancing or maintaining the vitality of Fallgate and Ashover due to its isolated location and distance to Ashover. Any occupant of a future dwelling would be more likely to visit more distant larger settlements.
- 7.11 The nearest bus stop is approximately 0.3 miles from the application site, close to the former Nettle Inn to the north east. This is however accessed via a narrow, predominantly unlit road, with only a short section benefiting from a footpath. Once reached, the bus service is very limited and it is highly likely that any new resident would drive to Ashover and further afield. The potential for travelling further afield by car to access employment, leisure and retail would be enhanced, particularly given the proximity and limited services in the immediate locality. Therefore, it is considered that the economic and social benefits arising from the proposed development would be limited.
- 7.12 In environmental terms, the steeply sloping application site has been cleared. As such, it is considered that the benefits relating to the construction of a new dwelling, would not outweigh the consequential environmental impacts resulting from reliance upon lengthy journeys made by private car for the majority of services and amenities.
- 7.13 In view of the above, the proposal is contrary to the aims and objectives of the development plan and the construction of a single dwelling in this location would not represent sustainable development, as such the principle of development is not acceptable in both Local and National Planning Policy terms.

### **Landscape Considerations**

- 7.14 The application site represents greenfield land between two existing dwellings, which is designated as a Special Landscape Area. The surrounding area is rural in character, with traditional cottage style properties dotted along Jetting Street, with many open gaps helping to create this informal rural character.
- 7.15 The application site is made up of steeply sloping ground, which has been cleared apart from a handful of trees along the west and southern boundary.



- 7.16 The site immediately abuts and fronts onto Jetting Street. Views from the north would be screened by the neighbouring property, however the proposed dwelling would be visible when travelling along Jetting Street in a south to north direction. The proposed dwelling would be highly visible when approaching the site along Jetting Street. Whilst Jetting Street is relatively low trafficked by vehicles, the route is well used by ramblers and horse riders. Although the site is relatively well screened from far reaching views, it is considered that the localised impact of constructing a single detached dwelling in this location, close to a road and a public right of way would represent an obtrusive encroachment into the countryside, which would have a detrimental impact upon the character and appearance of the Special Landscape Area.
- 7.17 In view of the above, it is considered that the proposed development would materially detract from and be out of keeping with the special character of the area. Further to this, it would represent development that would fail to meet the environmental tests of sustainable development.

### **Impact on Setting of Listed Building**

- 7.18 The statutory requirement of Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it a statutory duty for local planning authorities to have special regard to the desirability of preserving listed buildings or their setting, with particular regard to the duty relating to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority (LPA) shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.19 Local Plan Policy BE9 states that development affecting the setting of a Listed building will only be permitted if it preserves or enhances its setting, and includes where appropriate the retention of trees and other landscaping features. Emerging Policy SDC9 also considers the impact of development on non-designated heritage assets.
- 7.20 The application site lies to the north west of the Grade II Listed Commonbank House, a mid C18 dwelling with C20 alterations constructed from limestone with gritstone dressing and a welsh slated roof. The nearest non designated heritage asset runs along Jetting Street to the north east and forms the line of the former Stretton and Ashover Light Railway.

- 7.21 Due to the changes in levels, it is unlikely that the proposed dwelling would read in the same context of the listed building. It is Officers opinion that the proposed dwelling would therefore preserve the setting of the nearby listed building and respect the character of nearby non-designated heritage assets.

### **Privacy and Amenity Considerations**

- 7.22 The proposal is seeking outline consent with all matters reserved. The indicative layout indicates that the dwelling would be a detached two storey dwelling centrally sited within the site, providing acceptable distances from either neighbouring property.
- 7.23 In view of the above, it is considered that a single dwelling could be satisfactorily accommodated within the site without giving rise to any loss of privacy and amenity to neighbouring residents. Officers, would however raise concern as to the steeply sloping nature of the site and the lack of practical outdoor amenity space that could be provided for a family dwelling.

### **Highway Safety Considerations**

- 7.24 The dwelling would be located along Jetting Street, which is a roughly surfaced highway which doubles as a bridleway. It serves a number of existing properties to the south, west and north.
- 7.25 The indicative layout illustrates a single point of access onto Jetting Street with a hard standing area to the south of the dwelling, made up of space for the parking of two vehicles.
- 7.26 The County Highways Authority was consulted on the proposal and considered the development acceptable in highway terms providing highway safety conditions are included on any decision issued.
- 7.27 In view of the above, it is not considered that the proposed development would lead to a demonstrable harm to highway safety.

### **Ecology and Biodiversity Considerations**

- 7.28 The application site is made up of steeply sloping ground which has been cleared apart from a handful of trees along the western and southern boundary. The application is accompanied by a Preliminary Ecological Appraisal (PEA), produced by Armstrong Ecology and Mountains Ltd dated April 2020 and a Reptile Survey dated May 2020.
- 7.29 The application site falls within Stars Wood and Milltown Quarry which a special designated Local Wildlife Site (NE300).

- 7.30 DWT considered the submitted documents and concluded that the surveys were undertaken according to best practice and no reptiles were found on site. The off-site biodiversity enhancement are considered acceptable for securing biodiversity enhancements and that their implementation will off-set impacts elsewhere. The recommendations made in the PEA for the retention of trees, hedgerow and walls are supported.
- 7.31 It is considered that a sympathetically designed scheme, together with a sensitive scheme of on-site lighting and the implementation of ecological and biodiversity mitigation could be adequately addressed through suitably worded conditions on any decision issued. Therefore, it is not considered that the scheme should be refused on ecology grounds in this instance.

### **Other Considerations**

- 7.32 The majority of the application site is within Flood Zone 1, however part of the site falls within Flood Zones 2 and 3. The EA have confirmed that due to mapping errors and the fact that the site lies at a level significantly above the river, risk of flooding is minimal. The Local Planning Authority and LLFD have agreed on site investigation and drainage scheme conditions to be included on any decision.
- 7.33 Severn Trent Water Authority and the Councils Drainage Engineers raised no comments to the proposal. However, if permission is to be granted it is considered that conditions relating to foul and surface water drainage could be included in any decision notice.
- 7.34 The Council's Environmental Health Team was consulted and raised comments due to the location of the former quarry use of the site adjacent. Conditions should be attached to any decision requiring any land contamination being dealt with.
- 7.35 The application site lies within a Development Low Risk Area as defined by the Coal Authority.

## **8.0 Summary and Conclusion**

- 8.1 Having taken into account all the material consideration, it is considered that the proposed development would not accord with the three strands of sustainable development and it is therefore an unsustainable form of development.
- 8.2 The proposed dwelling would represent an obtrusive encroachment into the countryside that would have a detrimental impact upon the character and appearance of the Special Landscape Area.

- 8.3 A single dwelling would not impact on the setting of the nearby listed building, and would respect the character of nearby non-designated heritage assets.
- 8.4 Whilst a single dwelling could be accommodated within the site without giving rise to a loss of privacy and amenity to neighbouring residents, it would be positioned within a steeply sloping site, and there creating little practical outdoor amenity space expected for a family dwelling.
- 8.5 In ecological and biodiversity terms the proposal could be developed so that there would be a net biodiversity gain, subject to the inclusion of a number of conditions.
- 8.6 It is considered that the proposed development would not have a detrimental impact upon highway safety. Matters relating to land contamination and drainage could be addressed by suitably worded conditions.
- 8.7 As such it is considered that the proposed development should be refused.

## **9.0 Recommendation**

- 9.1 REFUSE Permission for the following reason:-

The application proposes the construction of a single dwelling in a countryside location away from any defined Settlement Development Limit. No special circumstances have been submitted which would justify the construction of a market dwelling in what is considered to be an unsustainable location in the countryside. It is considered that any proposed dwelling would detract from the character and appearance of the Special Landscape Area and would appear as an incongruous addition in the street scene. Therefore, to grant permission would be contrary to Local Plan Policies GS1, NE1 and NE2 of the North East Derbyshire Local Plan, Policies AP2 and AP13 of the Ashover Neighbourhood Plan and the National Planning Policy Framework when read as a whole.