

PLANNING COMMITTEE – 15 December 2020

REFERENCE NUMBER: 20/00795/FL **Application Expiry Date:** 18/12/20
Application Type: Full application

Proposal Description: Application to vary Condition 2 of planning application 18/00177/FL to allow for increased footprint, alter height of roof, verge detailing, amended doorway positions, proposed fenestration and changes to the internal layout (Amended Title)

At: Land to the South East of Sibera Cottages, Sydnop Hill, Darley Moor, DE4 5LF
For: Mr P Kelly

Third Party Reps: 1 obj, 2 support **Parish:** Ashover
Ward Name: Ashover

Author of Report: Emily Cartwright **Date of Report:** Thursday 1st October 2020

MAIN RECOMMENDATION: CONDITIONALLY APPROVE

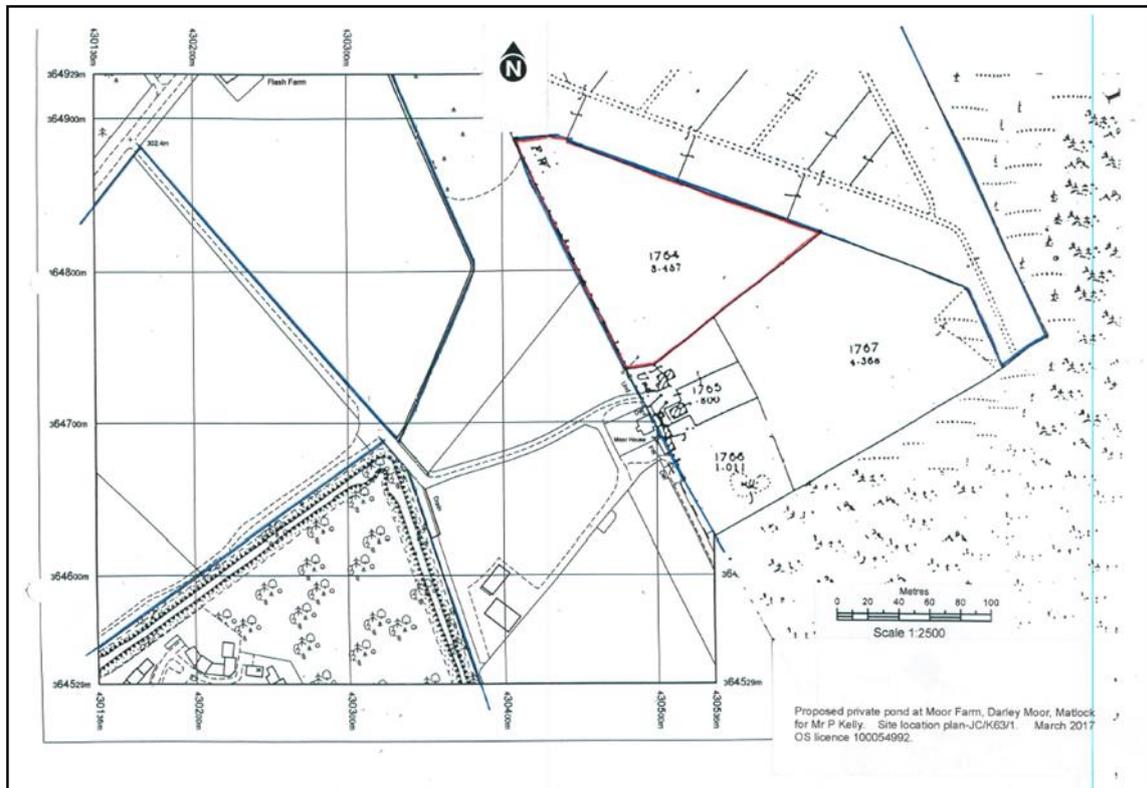


Fig 1: Site Location Plan

1.0 Reason for Report

- 1.1 Local ward member, Councillor Armitage has formally requested that the application be considered by members of planning committee due to lack of privacy and the reasons outlined by Ashover Parish Council.

2.0 Proposal and Background

Site Description

- 2.1 The application site is located to the north east of the applicant's dwelling, Moor House which is accessed along a narrow track which leads from Sydnope Hill (B5075) to the north.
- 2.2 The field subject to the application is sited to the north east of Moor House and features two ponds and a stone built building surrounded by a significant amount of new tree planting. The building will be used as a mixed use store and leisure building.
- 2.3 Land surrounding the building is predominately open in character, and due to the flat topography is visible from the public highway to the north, adjacent informal footpaths in woodland to the east and neighbouring properties.
- 2.4 To the immediate south is the neighbouring dwelling, Charlestown a large detached property which is separated from the application site by a dry stone wall.
- 2.5 To the east of the site is an open field owned by the applicant which is bounded by a band woodland. This is known as Matlock Forest and is managed by the Woodland Commission, and is a designated Local Wildlife Site (Ref: NE377).
- 2.6 The site is located within open countryside which is designated as a Special Landscape Area.

Proposal

- 2.7 This is an application to vary condition 2 (approved plans) pursuant of application 18/00177/FL to update the approved drawings to reflect the changes made to the scheme.
- 2.8 Planning permission 18/00177/FL was granted in 2018 for the erection of replacement building for mixed agricultural/leisure use. In 2019, application 19/00611/AMEND was submitted for amendments to position and details of fenestration.
- 2.9 The proposed changes to the scale of the building include a 1m increase in the height of the building from 5m to 6m; creating a steeper roof pitch and verge detailing. As well as an increase to the overall footprint of building from

5m x 5.8m (29m²) to 5.3m x 6.3m (33m²) respectively, amounting to an approximate 13% footprint increase.

2.10 The proposed elevation and floor plans (PK/MH/10) show amended window and door positioning and detailing, and a minor change to the internal layout to allow the disabled toilet to be more accessible.

2.11 The submitted block plan (PK01) shows the approved landscaping works which have been implemented on site, with the inclusion of further enhancement landscaping through the planting of additional trees and shrubs around the site.

3.0 Amendments

3.1 The agent has submitted a revised block plan (JC/K63/701/B) showing the proposed hardstanding details. These include a 1m wide paved area around the building and 3.9m wide disabled parking space on 'grasscrete' and a disabled ramp serving the door within the south east (facing) side elevation.

4.0 Relevant Planning History

4.1 15/00102/FL – Erection of new dwelling (CA)

4.2 17/00279/FL – Application for construction of a private pond (CA)

4.3 18/00177/FL – Erection of replacement building for mixed agricultural/leisure use (amended plans) (CA)

4.4 18/00784/DISCON – Application to discharge conditions 3 (Samples), 4 (Landscaping) and 7 (Biodiversity enhancement strategy) of planning application 18/00177/FL (DIS)

4.5 19/00611/AMEND – Non-material amendment pursuant of 18/00177/FL to allow the insertion of a new doorway into the west elevation, the incorporation of an additional window within the north elevation and the splitting of the viewing hatch to provide a centrally-located natural stone mullion (A)

4.6 19/00955/FL – Erection of single storey 3 bed dwelling (revised scheme of 15/00102/FL) (Further Information) (Amended Plans) (Amended Title) (CA)

5.0 Consultation Responses

5.1 The **Parish Council** requests that investigations are undertaken by the case officer into representations made against the application and that previous planning approval conditions are enforced. Ashover Parish Council considers that the proposal is against Policies AP2, AP13 and AP19 of the Ashover Parish Neighbourhood Plan. Members were given to understand that the double doors were for disabled access and that no shower facility is proposed for the building. [Officer note: An application has been invited to regularise the

scale of the works associated with the ponds. No application has been submitted to date.]

- 5.2 The **Ward Member** called the application into committee on the grounds that development would be contrary to the Ashover Neighbourhood Plan.
- 5.3 **County Highways Authority** were consulted, and raised no objections.
- 5.4 **Derbyshire Wildlife Trust** (DWT) were consulted, and confirmed that the variations detailed do not appear to have any bearing on the ecology of the site. Previous plans (particularly PK/MH/7) demonstrated a net biodiversity gain. It is important that the measures detailed in this plan and discussed in previous correspondence from the Trust are implemented and we would welcome any photographs of the nesting/roosting features, new pond and wildflower grassland *in situ*.
- 5.5 **Environmental Health** (EHO) were consulted and have no comments to make regarding the variation, and therefore do not object to the proposal.
- 5.6 **NEDDC Drainage** were consulted, however no comments have been received.
- 5.7 **Severn Trent Water** (SW) were consulted, however no comments have been received.

6.0 Representations

- 6.1 The application was publicised by way of neighbour letters and the display of a site notice. A number of material objections have been raised by one neighbouring resident and two letters of support have been received from which can be summarised as follows:

Objections:

Design and Landscape

- The building character has substantially changed from that of the approved subservient-by-design building.
- The later design is very domestic in appearance
- 1.3m taller in external dimensions, is out of character and area, and is in excess of the size required for its stated use requirement
- Excavations have taken place to provide for a patio area which we understand will completely surround the building when it is completed.
- The building currently has glazed windows and glazed French doors which are contrary to the shuttered fenestrations as illustrated within the original 2018 plans and elevation drawing.
- Is in excess of the size required for its stated use requirement
- The traffic movements and the parking of vehicles on site is detrimental to the character and appearance of its surrounding environment. The effect of car parking on the "field" is prominently urbanising.

- Object to external lighting or any other type of lighting emitting from the building, this is a dark landscape, external lighting here will adversely affect our night sky observation vision and is contrary to the original consent condition 6.
- The additional proposed tree planting, when matured, will effectively have totally enclosed our property away from our views of the open countryside which we normally enjoy from the front windows of our property. Whilst we are aware of the planning terms regarding the entitlement to views, the following factors should be taken into consideration by Planning: Forest Enterprises' trees enclose our property to 2 sides. The additional proposed planting around the pond will result in the trees enclosing our property to a 3rd side of the property.
- These additional constructional changes will facilitate activities to take place which are neither desirable nor compatible with the original wildlife scheme illustrated within the supporting planning statements for planning application (ref 17/00279/FL). These changes, if allowed, will further erode the ecological value of the original wildlife scheme concept. This building including car parking and patio area cannot be regarded as essential or acceptable under the policies below in this countryside location.
- Object to this area of agricultural land becoming domesticated by 'stealth' and the open countryside here is being rapidly eroded by the applicant for his own personal pleasure, to the detrimental of wildlife and the countryside amenity for others.

Policy

- This building and the variation from the original consent, currently to be considered within this Section 73 application, fails to satisfy the SS9 policy on all of the above points.
- We have observed the building in its present form fails to satisfy GS6, open countryside, BE1, general design principles. NE1, Landscape Character.
- This building in this location fails to satisfy any of the Ashover Parish policies.

Amenity

- The traffic movements generated to and from the building and site as a whole is such that it impacts on the neighbour's privacy and amenity.
- Disturbances are set to increase with increasing use of what we have been advised is an unauthorised change of use from a small wildlife pond to that of a very much larger fishing facility
- Security cameras installed overlook neighbouring land and property [*Officer note: the cameras in question appear to represent permitted development under Part 2, Class F of the General Permitted Development (England) Order 2015*]
- Irrespective of the states uses mentioned within this present application, which will effectively serve to extend the curtilage around the building, we are aware the paved area will be used as a patio area for entertaining guests, with a fire put, and for drinking and sitting out purposes, uses which we would describe as domestic, and these activities will certainly not be conducive to a wildlife scheme. If consent were to be granted,

these activities will be in full view of our property's principle windows to the detriment of our privacy, our enjoyment and amenity of our residential property.

- The objector suggests conditions relating to limiting the use of the building, there being no activity around the building, limiting the use of the mezzanine floor, there being no lighting installed on the building, no vehicle movements around the building and security cameras restricted. [*Officer note: the relevant conditions recommended by officers are at the end of this report. Most of the proposed conditions put forward by the objector would not meet the tests set out in National planning policy.*]

Supporting comments:

- The area has been transformed into a haven for wildlife.
- The 'fishing hut' enables those who are frail and less mobile to also enjoy viewing the wildlife
- Feel that it provide a nice addition to the landscape particularly the use of natural stone which complements the surrounding traditional stone walls and local properties
- The surrounding carefully considered landscaping providing safe access for family and close friends including those with disabilities in exercise and hobbies which are of benefit to their physical and mental health
- The outbuilding located near to the ponds is in-keeping with the other buildings in the area and has obviously been constructed with the countryside setting in mind.
- Continued growth of trees surrounding the outbuilding can and will only serve to merge and enhance the overall landscape
- Firmly believe that the outbuilding will not have any detrimental effect on the local dark space
- We believe the ethos of caring for the land surrounding Darley Moor, adopted by the landowners, will continue to enable the area to flourish into a mature wildlife habitat that will attract and sustain native Derbyshire wildlife, which should be cherished and enjoyed.

7.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan (Adopted November 2005)

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

GS1 Sustainable Development
GS6 Open Countryside
NE1 Landscape Character
NE3 Flora and Fauna
BE1 General Design Principles

Emerging North East Derbyshire Local Plan (Under Examination)

- 7.2 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.
- 7.3 This consultation is currently underway, with no further changes being proposed to the eLP prior to adoption, as such it should be given significant weight in the determination process.
- 7.4 The following emerging Local Plan policies are material to the determination of this application:
- SS1 Sustainable Development
 - SS9 Development in the Countryside
 - SDC3 Landscape Character
 - SDC12 High Quality Design and Place Making

Ashover Neighborhood Plan

- 7.5 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
 - AP19 Dark Skies

National Planning Policy Framework (NPPF)

- 7.6 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

- 7.7 Successful Places Interim Planning Guidance, adopted December 2013.

8.0 Planning Issues

Principle of Development

- 8.1 The principle of development on this site was established through the granting of 18/00177/FL. The proposed use of the building, siting and materials are unchanged, therefore the application is considering the scale and detailing only.

Section 73 Process

- 8.2 Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. A Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original permission will continue to subsist whatever the outcome of the application under section 73.

Design and Impact on Countryside Considerations

- 8.3 The application site is open in character, comprising of agricultural fields with intersecting dry stone walls bounded by two detached dwellings to the south and woodland to the east.
- 8.4 Having visited the site and reviewed the submitted plans, the increase in height of the building results in a steeper roof pitch than that approved on the 18/00177/FL application. The combination of the steeper roof pitch and additional verge detailing have changed the simplistic character of the building which was originally approved. However, it is noted that design of the roof is now similar in appearance to the neighbouring property; Flash Farm to the west.
- 8.5 It is considered that whilst the footprint (13% increase) and overall scale (1m height increase) of the building has increased the building is still of an appropriate scale for its designed use, which does not detract from the surrounding landscape or represent a prominent intrusion into the countryside. It is noted that, whilst the site is visible from public viewpoints on Sydnop Hill to the north and north west, these views are from some distance and the intervening development and planting helps screen the building.
- 8.6 The amended position and fenestration details have been designed sympathetically to the surrounding countryside setting with the use of high quality materials.
- 8.7 The additional soft landscaping planting will further enhance the site and provide screening over time from public viewpoints. The hard landscaping details will provide safe access to the building when occasionally required. Given the countryside location, it is important that hardstanding is kept to a minimum in order to retain the open nature of the site. It is considered that the details proposed are well contained to the existing built form and will have limited visual impact, merging with the adjoining planted area.
- 8.8 It is noted from a neighbour's representation and the site visit that two external lights have been installed above the side elevation doors. These details have not been included within the submitted plans and it is considered that no external lighting should be approved as part of the proposal, in the interest of protecting the designated Dark Skies as identified in the Ashover

Neighbourhood Plan. This can be controlled by way of condition on any approval.

- 8.9 In view of the above, it is considered that the building is of a high quality design which has a limited visual impact on the surrounding landscape respects the rural character of the area.

Privacy and Amenity Considerations

- 8.10 The closest neighbouring property is Charlestown, which is located approximately 110m to the south of the subject building.
- 8.11 The use of the building has not changed from the approved 18/00177/FL application (storage of equipment in conjunction with the pond, filtration suite and as a bird hide).
- 8.12 It is noted that representation has been made in relation to traffic movements to and from the building which would impact the neighbouring properties privacy and amenity. Occasional access to the building would be utilised by disabled family and friends, and it is not considered that the use of the building would be intensive or demonstrable to the enjoyment of the nearby residential properties or land uses.

Highway Safety Considerations

- 8.13 The proposed development does not include any new road infrastructure.
- 8.14 The County Highways Authority was consulted on the proposal, and raised no objections.
- 8.15 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

- 8.16 The approved landscaping works have been implemented and will be enhanced, as shown on Landscaping and Block plan PK01 which includes the planting of additional trees and shrubs.
- 8.17 Derbyshire Wildlife Trust (DWT) have reviewed the submitted details, and confirm that the enhanced landscaping would not have any bearing on the ecology of the site.
- 8.18 In view of the above, it is considered that the proposed development would not result in a net loss of biodiversity.

Other Considerations

- 8.19 The application site is within Flood Zone 1, which has a low probability of flooding.

- 8.20 The application site lies within a Development Low Risk Area as defined by the Coal Authority.
- 8.21 A number of representations have been received which raise issues that do not relate to the existing application or are not considered material planning considerations. A number of conditions linked to the building and its use have been proposed by an objector, however officers consider that these do not meet the tests of a planning condition. All relevant conditions have been put forward by officers in this report.

9.0 Summary and Conclusion

- 9.1 Having taken into account all the material considerations, it is considered that the proposed development is acceptable in principle and changes made to the scale, character and appearance of the building would have an acceptable impact upon the character of the countryside.
- 9.2 The proposed development would not result in an adverse detrimental impact upon the privacy and amenity of nearby residential properties or neighbouring land uses, nor would it lead to an adverse impact upon highway safety or lead to a loss of net biodiversity.
- 9.3 It is therefore considered that the proposed development would be in line with the emerging local plan policies of the Council and the overarching aims of the NPPF, therefore the proposal should be granted subject to conditions.

10.0 Recommendation

- 10.1 APPROVE Permission for the above reasons, subject to the following conditions:-

Conditions

1. The development hereby permitted shall be started within 3 years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following submitted plans, unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice:
 - Drwg.no PK/MH/10, Plans and Elevations (date stamped 27.08.2020)
 - Drwg.no PK01, Block Plan (date stamped 27.08.2020)
 - Drwg.no JC/K63/701/B, Revised Block Plan (date stamped 19.11.202)

3. All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
4. No external lighting shall be installed on the building hereby approved and the building shall not in any way be artificially illuminated.
5. The approved biodiversity enhancement strategy shall be implemented in accordance with the approved details and retained as such for the lifetime of the development.