

<b>APPLICATION NUMBER</b>		23/01274/OUT	
<b>SITE ADDRESS:</b>		Land To The West Side Of Derby Lane Ednaston Derbyshire	
<b>DESCRIPTION OF DEVELOPMENT</b>		Outline planning application for the erection of 2 no. dwellinghouses (1x affordable) with approval being sought for access	
<b>CASE OFFICER</b>	Aspbury Planning	<b>APPLICANT</b>	Mr David Goodall
<b>PARISH/TOWN</b>	Brailsford	<b>AGENT</b>	Mr James Filer Filer Williamson Limited
<b>WARD MEMBER(S)</b>	Cllr Geoff Bond	<b>DETERMINATION TARGET</b>	22/03/2024
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	5 unresolved objections	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	For Members to appreciate the site and context.

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Principle of Development</li> <li>• The impact on the character and identity of the settlement and the local landscape</li> <li>• Highway considerations</li> <li>• Impact on trees, biodiversity and wildlife</li> <li>• Flood risk and drainage</li> </ul>

<b>RECOMMENDATION</b>
Refuse for the reasons set out in section 8.0 of the report.

## 1.0 THE SITE AND SURROUNDINGS

- 1.1 The application site is located off the western side of Derby Lane, to the north eastern edge of Ednaston and west of Brailsford. The current site comprises the south eastern portion of an agricultural field bound by existing hedgerow planting. There are existing residential properties on the northern and southern side of Derby Lane before the bend in the road while leaving the village along Derby Road however along the north/south route of Derby Lane, off which the site is located, the land remains largely undeveloped. Brailsford Public footpath 36 runs across the agricultural field to the north west of the site.



## 2.0 DETAILS OF THE APPLICATION

- 2.1 Outline planning permission is sought for the erection of two dwellings (1 x affordable) with all matters reserved apart from access as set out in the submitted documents received by the Local Planning Authority on 05/01/2024. Access to the site is proposed via a new access of the western side of Derby Lane. The indicative layout plan presents 2 bungalows set alongside and fronting onto Derby Lane, with a plot of undeveloped land to the north of the 2 proposed plots.

## 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

### 3.1. Adopted Derbyshire Dales Local Plan 2017

- S1: Sustainable Development Principles
- S2: Settlement Hierarchy
- S4: Development in the Countryside
- PD1: Design and Place Making
- PD3: Biodiversity and the Natural Environment
- PD5: Landscape Character

PD6: Trees, Hedgerows and Woodlands  
PD7: Climate Change  
PD8: Flood Risk Management and Water Quality  
HC1: Location of Housing Development  
HC5: Meeting Local Affordable Housing Need (Exception Sites)  
HC19: Accessibility and Transport  
HC21: Car Parking Standards

### 3.2 Brailsford Neighbourhood Plan 2021

H1: Housing  
TMA1: Traffic Management and Accessibility  
LW1: Landscape and Wildlife

### 3.3 Other:

The National Planning Policy Framework (2023)  
National Planning Practice Guidance

## 4.0 **RELEVANT PLANNING HISTORY:**

- 4.1 Outline planning application for the erection of up to 3no. dwellinghouses with approval being sought for access  
Ref. No: 22/01084/OUT | Status: Withdrawn
- 4.2 Outline planning application for the erection of up to 3no. dwellinghouses with approval being sought for access (resubmission)  
Ref. No: 23/00832/OUT | Status: Refused

## 5.0 **CONSULTATION RESPONSES**

### Derbyshire County Council (Highways)

- 5.1 The Highway Authority have previously commented on application 22/01084/OUT to which no highway objections were raised, in highway terms the application appears similar and therefore the same conditions as stated in my response dated 2 October 2023 remain applicable to this current application.

### Ward Councillor

- 5.2 No comments received

### Parish Council

- 5.3 No Comments received

### Environmental Health (Derbyshire Dales)

- 5.4 No objections subject to construction hours being limited to 8am-6pm Monday to Friday and 8am-1pm Saturday. No working Sundays and Bank Holidays.

**5.5 No comments have been received at time of writing this report.**

The Arboricultural Survey Report & Method Statement is the same report submitted for application 23/00832/OUT.

**5.6 Trees and Landscape Officer comments dated 09/08/23 on application 23/00832/OUT**

The site and its immediate surroundings are not currently subject to DDDC Tree Preservation Order and are not in a conservation area. There are no recognised veteran trees or ancient woodland close enough to be adversely affected by the proposals. However, the trees and hedgerow within the red line boundary or close to it are considered to significantly contribute to the character, appearance and amenity of the locality. It is important that structurally sound, healthy trees and hedgerows are retained and allowed to continue providing their many benefits to landscape, environment, wildlife and human health.

Mature trees are regarded as being particularly important because of the many decades it would take to replace them.

Native and naturalised tree species are generally regarded as particularly desirable because they contribute particularly desirable qualities to the natural character of the landscape.

It appears that no details relating to trees have been submitted to date and it is unclear to what degree they have been considered in developing the proposals.

I recommend that an Arboricultural Impact Assessment (AIA) be submitted for approval pre-determination. This should be prepared in accordance with BS 5837 (2012) Trees in relation to design, demolition and construction – Recommendations.

Trees are a material planning consideration and therefore appropriate retention, protection and successful long term integration into the proposed development will be required. The report and its associated plans should be used to inform the proposed site layout design.

The AIA should include:

- a Tree Survey Schedule,
- a Tree Constraints Plan (on a Site as Existing plan),
- a Tree Removals and Retention Plan (on a Site as Proposed plan),
- a Tree Protection Plan (on a Site as Proposed plan) which shall include
- distances of offset between tree stems and fencing positions to facilitate correct positioning on-site,
- a plan showing the areas which may be exposed to significant shading by retained trees, and
- a specification for temporary tree protection plan and/or temporary ground protection to protect the root protection area of retained trees to include timings of erection and removal.

All to be prepared in accordance with BS5837 (2012).

Additionally, if the AIA shows any development or site activity would encroach the canopy spread or the root protection area of any retained trees then an arboricultural method statement (AMS) shall be submitted for approval. This could be required to discharge a condition to a grant of planning consent rather than being required pre-determination. It is important that retained trees are protected through the exclusion of all development and site activity from their rooting area. This is normally achieved by the erection of temporary tree protection fencing to enclose the rooting area to exclude access throughout the period of works at the development site. The root protection area as calculated

according to the guidelines of BS5837 (2012) is considered to include sufficient roots to sustain the health and stability of the tree.

Severance or physical damage to the roots in the root protection area has significant potential to compromise the tree which may lead to its decline, premature death, structural failure or instability. Soil compaction, surface level changes or contamination within this zone can cause death of living cells in roots and impair their functions, again causing the tree to decline, die or have reduced stability. Affected trees' decline, structural failure or premature death can manifest immediately or up to several years later.

**5.7 Trees and Landscape Officer comments on application 23/00832/OUT dated 19/09/23 following submission of Arboricultural Survey Report & Method Statement:**

The arboriculture report indicates that the roadside hedgerow G1 would have to be removed along the length of the site to facilitate the visibility splay. The hedgerow was classified in the report as BS5837 (2012) category C (low value) so should not be considered as a constraint to development. If the proposals were to be granted planning consent, then I would recommend that the hedgerow should be replaced with planting behind the visibility splay and that this should be comprised of a mixture of at least 6 woody native species to maximise its value to wildlife. A specification for hedgerow replacement planting should be required to be submitted for approval as a condition to any grant of planning consent. The roadside sycamore tree T1, was classified by the report as BS5837(2012) category B (medium value) and so should be considered a constraint on development. It should not therefore be removed to facilitate the proposals unless it is demonstrated to be unsafe. The tree should be retained and if planning consent were to be given for the proposals, then the part of its root protection area that extends into the site should be protected by the use of temporary tree protection fencing, as specified in the report. The site layout design should be modified if necessary to indicate no development within the protected area.

**5.8 Trees and Landscape Officer comments relating to Landscape dated 19/09/23 on application 23/00832/OUT:**

The site is located beyond the edge of the built-up part of the village within an existing agricultural field adjacent the minor road into the village. The proposals would be prominent from the road and extend the village beyond its current extents into the countryside. There would be a significant change to the character and appearance of the locality which I suggest the Planning Officer considers.

Derbyshire Wildlife Trust

**5.9 We have reviewed the proposed development and the Preliminary Ecological Appraisal (Astute Ecology, April 2022). The proposal will result in the loss of arable land, improved grassland and ruderal herbs, which were considered to be of negligible to low ecological value. Two trees and a species-poor hedgerow on site will be retained.**

The site was considered to have 'negligible' potential to support roosting bats. However, the hedgerow along the eastern boundary, which forms a part of a longer hedgerow, was considered to offer low value commuting habitat for bats. The eastern hedgerow was also considered to offer potential foraging and sett building habitat, alongside the presence of previous badger records in the local area. No evidence of nesting was recorded, but the existing hedgerow and trees offer suitable habitat for a range of bird species. No other protected species are likely to be significantly affected by the development.

There are currently no details on how the development will address the loss of habitats on site and therefore it is not clear if a measurable net gain can be achieved on site. Whilst a mandatory 10% Biodiversity Net Gain is not applicable for this application, some level of net gain should be evidenced, in line with the NPPF 2023 and Local Plan policies.

Measures such as vegetated gardens, urban trees, planting mixed scrub or creating an area of species rich grassland may be achievable on site and we advise that the small sites metric should be used to demonstrate confidence that a gain can be achieved.

The retained trees and hedgerow shall be protected during works in accordance with the Arboricultural Survey Report & Method Statement (John Booth Arboricultural Consultants Ltd., 2023)

Once a metric has been submitted to provide confidence that a biodiversity gain can be achieved, we can provide appropriate condition wording.

## **6.0 REPRESENTATIONS RECEIVED**

6.1 10 representations have been received in objection to the proposed development, two of which are non-attributable. A summary of the representations is outlined below:

- Highways Safety / Traffic/ Access
- Not safe for pedestrians – no footpath
- Flood risk, drainage, impact on water table
- Impact upon character of the area
- Impact upon Landscape character, trees, hedgerow, wildlife
- Loss of agricultural land
- Query the affordable aspect / no need for more housing
- Outside built-up area of village
- Unsustainable location

Non-attributable objections:

- Unsustainable location
- Not infill – outside built-up area
- Highways concerns – inadequate road network
- Impact on character of the area
- Removal of hedgerow for access
- No demand for housing
- Flooding
- Loss of agricultural land

## **7.0 OFFICER APPRAISAL**

7.1 This application seeks outline planning permission for the erection of 2 dwellings (one affordable) on site with all matters reserved except access.

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission under the Act are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Derbyshire Dales Local Plan (2017) and the Brailsford Neighbourhood Plan (2023). The National Planning Policy Framework (2021) is a material consideration in respect of this application.

7.3 The Council is unable to demonstrate a 5 year housing land supply at this time and the tilted balance in favour of sustainable development is engaged by virtue of Para 11d) of the National Planning Policy Framework (2023).

7.4 Having regard to the above, consultation responses and representations received and the relevant provisions of the development plan and guidance contained within the National Planning Policy Framework, the main issues to assess are:

- Principle of Development
- The impact on the character and identity of the settlement and the local landscape
- Highway considerations
- Impact on trees, biodiversity and wildlife
- Flood risk and drainage

#### Principle of Development

7.5 The site is located on the north eastern edge of Ednaston. Ednaston is defined by policy S2 of the Adopted Derbyshire Dales Local Plan (2017) as a fifth tier settlement which has a “lack of basic facilities to meet day to day requirements”. As there is no defined settlement boundary to Ednaston, the site is deemed to be in the countryside and the principle of the development should be considered against policy S4 (Development in the Countryside) of the Adopted Derbyshire Dales Local Plan (2017).

7.6 Policy S4 of the Adopted Derbyshire Dales Local Plan (2017) part (i) outlines the acceptable forms of residential development for sites within the countryside. This includes “Housing in fourth and fifth tier villages in accordance with Local Plan Policy S2”. Policy S2 states that in fifth tier settlements “there could be scope for very limited development within the physical confines of the settlement where this is limited to infill and consolidation of the existing built framework; or where there are opportunities for the redevelopment of brownfield sites on the edge of settlements which will result in a positive environment improvement” Similarly, Brailsford Neighbourhood Plan (2021) policy H1 (Housing) supports proposals for housing where they are located within Settlement Boundary for Brailsford or “small-scale infill development which relates well to neighbouring properties and is appropriate for the rural setting”.

7.7 In this case, the development site comprises a portion of an agricultural field on the edge of the settlement. The development would not constitute infill or consolidation of the existing built framework of Ednaston and as a result, the development is considered to be contrary to policies S2 and S4 of the Adopted Derbyshire Dales Local Plan (2017) and policy H1 of Brailsford Neighbourhood Plan (2021). Notwithstanding that the District Council cannot demonstrate a five-year housing land supply at this time and the presumption in favour of sustainable development is engaged, the unsustainable location of the site away from basic services and facilities is such that this would significantly and demonstrably outweigh the modest benefits associated with delivery of one market dwelling house and one affordable dwelling in this case.

#### Proposal for Affordable Housing

7.8 Policy HC5 of the Adopted Derbyshire Dales Local Plan (2017) specifies the exceptional circumstances in which planning permission would be granted for affordable housing on sites that would not normally be released for housing development. These are:

- a) the Council is satisfied that the development is of a size, type and tenure which can be justified by evidence of need from a local housing needs survey which cannot be readily met elsewhere in the locality, for the number and type of housing proposed;
- b) the scale is in keeping with the settlement’s setting and its role in the settlement hierarchy;
- c) the site is considered to be the most suitable to meet the identified need;
- d) the site is accessible to a range of local facilities and services;
- e) it is not subject to any other over-riding environmental or other material planning

constraints;

f) unless the housing consists of discounted starter homes, appropriate legal agreements are secured in order to ensure that such dwellings will remain available as affordable housing for local need, in perpetuity with the necessary management arrangements;

g) the gross internal floor area of these dwellings shall comply with the latest recommended standards used by the Homes and Communities Agency (or any successor organisation).

- 7.9 All of the above clauses (a to g) must be met in order for the Council to consider the site as a rural exception site for the provision of affordable housing.
- 7.10 No evidence of the local need for the proposed affordable unit has been provided in the form of a local housing needs survey, therefore the first of the criteria is not met.
- 7.11 The NPPF indicates that, in rural areas the local planning authorities can consider allowing some market housing that would facilitate the provision of significant additional affordable housing to meet local needs.
- 7.12 The proposed development is not considered to provide a significant quantity of affordable housing such as to justify a departure from policies S2 and S4 of the Adopted Derbyshire Dales Local Plan (2017) and policy H1 of Brailsford Neighbourhood Plan (2021)

#### The impact on the character and identity of the settlement and the local landscape

- 7.13 A key consideration in respect of this application is the impact of the development on the local landscape and character, identity and setting of the existing settlement. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) advises that development will conserve and where possible enhance the natural and historic environment, including settlements within the plan area.
- 7.14 Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dales' townscapes and landscapes.
- 7.15 Policy PD5 deals specifically with landscape character and advises that development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.16 The existing built framework of Ednaston ends where Derby Lane turns and runs north toward Painters Lane out of the village. On this north/south route of Derby Lane due to the lack of development, open agricultural land and hedge lined highway, the existing character of this area is rural and agricultural. In this regard, the introduction of 2 new dwellings would have an urbanising impact on the countryside location.
- 7.17 The submitted planning statement outlines that the existing boundary hedge along the roadside would be in part removed and replaced to achieve the required visibility splays. There are some concerns regarding the re-location of the hedgerow in terms of retaining the existing character of the lane. Also, the existing hedgerow is maintained at a relatively low level and even the single storey structures proposed are likely to be highly prominent in views from the highway. The location on the bend of Derby Lane is also highly prominent and the urbanising effect of the proposed 2 dwellings is considered to fundamentally change the rural character of the area when entering and leaving the village.
- 7.18 The development is considered to project beyond the existing built framework of Ednaston therefore creating a built form which is considered to have a harmful, urbanising effect on the rural character of the area. The proposed development is not considered to be in



accordance with policies S1, PD1 or PD5 of the Adopted Derbyshire Dales Local Plan (2017) and a recommendation of refusal is made on this basis.

### Highway considerations

- 7.19 Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017) states the “The District Council will seek to ensure that development can be accessed in a safe and sustainable manner”. The application proposes a new access point taken off the western side of Derby Lane to serve the 2 proposed dwellings.
- 7.20 Several local residents have raised concerns regarding the impact of the development on the safety of highway users. The Local Highway Authority consultation response received by the Local Planning Authority raises no objections and recommends conditions should the LPA be minded to approve the application. On this basis it is considered that the development is likely to be acceptable in highway safety terms.

### Impact on trees, biodiversity and wildlife

- 7.21 The submitted Ecological Survey which accompanies this application has identified no protected species constraints to the development and identifies the habitats are of relatively low ecological value.
- 7.22 During the course of the consideration of the previous application for 3 dwellings on the same site under reference 23/00832/OUT, comments were submitted by the Tree and Landscape Officer which raised no concerns with the replacement of the existing hedgerow as this is deemed to be category C (low value).
- 7.23 Retained trees and hedgerow should be protected in accordance with the Arboricultural Survey Report & Method Statement.
- 7.24 Derbyshire Wildlife Trust state that there are some areas of the site which offer potential habitat for protected species. The loss of habitat has not been addressed; therefore, a small site metric is recommended to ensure that some level of biodiversity net gain is achieved in line with the NPPF 2023. The metric has not been submitted with the application; however, it is acknowledged that this was not a requirement for the previous proposal for 3 dwellings on the same site. The comments from the Derbyshire Wildlife Trust were submitted on 28<sup>th</sup> March 2024, therefore the applicant has not been given the opportunity to respond to the comment.

### Flood risk and drainage

- 7.25 Whilst concerns have been raised by local residents with regard to the potential flooding of the site, the site lies within Flood Zone 1 and is therefore deemed to be at the lowest risk of flooding. There is not currently any evidence to suggest that water could not be satisfactorily drained from the site. Appropriate drainage could be secured by planning condition, if permission were granted.

### Conclusion

- 7.26 The application proposes the construction of 2 no. dwellinghouses (1x affordable) with approval being sought for access in an unsustainable location, outside of any defined settlement boundary, with no evidence submitted to support the proposal regarding local need for affordable housing to justify as a rural exception site. The proposal is therefore deemed to be unacceptable in principle and would result in unwarranted and encroaching development that is intrinsically harmful to the character and appearance of this part of the countryside contrary to Policies S2, S4, PD1, PD5 and HC5 of the Adopted Derbyshire

Dales Local Plan (2017), policy H1 of the Brailsford Neighbourhood Plan (2021) and the National Planning Policy Framework (2023). A recommendation of refusal is made on this basis.

## **8.0 RECOMMENDATION**

That planning permission be refused for the following reason(s):

1. The proposed development would lead to an unwarranted and intrusive form of residential development, resulting in development along the western side of Derby Lane in a countryside location, outside of any defined settlement boundary that does not respect the character, identity and context of this part of the countryside contrary to Policies S2, S4, PD1, PD5 and HC5 of the Adopted Derbyshire Dales Local Plan (2017), policy H1 of the Brailsford Neighbourhood Plan (2021) and the National Planning Policy Framework (2023).

### **NOTES TO APPLICANT:**

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

This decision notice relates to the following plans and documents:

Planning Statement  
Design and Access Statement  
Access Appraisal (MEC, August 2023)  
Preliminary Ecological Appraisal (Astute Ecology, April 2022)  
Arboricultural Survey Report and Method Statement (John Booth, August 2023)  
Site Location Plan - FW 114 D53 (REV B)  
Site Plan - FW 114 D54 (REV B)  
Location Plan (Visibility Splays) FW 114 D55  
Illustrative Layout Drawing - FW 114 D52 (REV F)