

Planning Committee 10th October 2023

APPLICATION NUMBER		23/00832/OUT	
SITE ADDRESS:		Land To The West Side Of Derby Lane, Ednaston, Derbyshire	
DESCRIPTION OF DEVELOPMENT		Outline planning application for the erection of up to 3no. dwellinghouses with approval being sought for access (resubmission)	
CASE OFFICER	Mr J Baldwin	APPLICANT	Mr D Goodall
PARISH/TOWN	Brailsford	AGENT	Mr J Filer
WARD MEMBER(S)	Cllr G Bond	DETERMINATION TARGET	29.09.2023
REASON FOR DETERMINATION BY COMMITTEE	3 or more dwellings outside of a main market town.	REASON FOR SITE VISIT (IF APPLICABLE)	For Members to appreciate the site and context and the impacts to the character and appearance of the area.

MATERIAL PLANNING ISSUES

- 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

RECOMMENDATION

That the application be refused 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 three dwellings with all matters reserved apart from access as set out in the submitted documents received by the Local Planning Authority on 04/08/2023. Access to the site is proposed via a new access of the western side of Derby Lane. The indicative layout plan presents 3 bungalows set alongside and fronting onto Derby Lane.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan (2017)
 - S1: Sustainable Development Principles
 - S2: Settlement Hierarchy
 - S4: Development in the Countryside
 - PD1: Design and Place Making
 - PD2: Protecting the Historic Environment
 - 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
 - HC19: Accessibility and Transport
 - HC21: Car Parking Standards
2. Brailsford Neighbourhood Plan (2021)
 - H1: Housing
 - TMA1: Traffic Management and Accessibility
 - LW1: Landscape and Wildlife
3. National Planning Policy Framework (2023)
 - National Planning Practice Guidance
 - Landscape Character and Design SPD (2018)
 - Climate Change SPD (2021)
 - Developer Contributions SPD (2020)

4.0 RELEVANT PLANNING HISTORY:

None.

5.0 CONSULTATION RESPONSES

Derbyshire County Council (Highways)

- 5.1 Within the application site frontage is a tree and speed limit signs, however, these have not been indicated on the plan and it is not clear if the tree falls within the visibility? And/or if the tree is being removed? If this is a highway tree compensation for its loss would need to be calculated. Please hold the application in abeyance until details regarding the trees location to the access have been submitted and its situation has been clarified.

Derbyshire Wildlife Trust

- 5.2 We have reviewed the Preliminary Ecological Appraisal (Astute Ecology, April 2022). There are no protected species constraints to the development and habitats are of relatively low ecological value. We advise that existing trees and native hedges should be retained within proposals and wildlife-attracting landscaping incorporated within the design. A biodiversity metric has not been provided and the LPA may wish to request a small sites metric, should they wish to quantify the losses and gains. Conditions suggested relating to nesting birds, external lighting and the submission of a biodiversity enhancement plan.

Trees and Landscape Officer (Derbyshire Dales)

- 5.3 09.08.2023:

Trees:

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.

Landscape:

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.

18.09.2023:

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.

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.

6.0 REPRESENTATIONS RECEIVED

- 6.1 A total of 11 representations have been received in objection to the proposed development one of which is non-attributable. A summary of the representations is outlined below:

Objections:

- Land used for growing crops should be protected.
- The development does not represent infill development.
- Concerns regarding further development of the site.
- Concerns regarding flooding.
- Concerns regarding safety of highway users and pedestrians.
- The village does not need any further housing as there are currently vacant properties.
- There are no amenities within the village and nearby services have insufficient availability (e.g. schools, doctor surgery).
- The development would increase traffic and noise in the village.
- The development represents ribbon development and will harm the character of the village.
- The development requires the destruction of ancient field boundaries.
- The submitted plans are not to scale and do not show the correct width of the road.

Non-attributable objections:

- There should be no development on land used for growing food. Development should be focussed on brown field sites.
- Concerns regarding highway safety.
- The development would be an extension of the village and not infill.
- Concerns regarding flooding.

7.0 OFFICER APPRAISAL

- 7.1 This application seeks outline planning permission for the erection of 3 dwellings 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 (2021).
- 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 three market dwelling houses in this case.

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

- 7.8 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.
- 7.9 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.
- 7.10 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.
- 7.11 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 3 new dwellings would have an urbanising impact on the countryside location.
- 7.12 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 3 dwellings is considered to fundamentally change the rural character of the area when entering and leaving the village.
- 7.13 The development is considered to project beyond the exiting built framework of Ednaston therefore comprising ribbon development 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

- 7.14 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 3 proposed dwellings.
- 7.15 A number of local residents have raised concerns regarding the impact of the development on the safety of highway users. Concerns have also been raised by the Local Highway Authority in the consultation response received by the Local Planning Authority that the submitted plan does not show an existing tree within the visibility sightlines shown on submitted plans and it is unclear as to whether this tree will be retained as part of the development. Clarification has been provided from the applicants through the submission of an Arboricultural Assessment which states that the tree will be retained but sits outside of the visibility sightlines. On this basis it is considered that the development is likely to be acceptable in highway safety terms however, final comments will from the Local Highway Authority will be provided to members within the late representations.

Impact on trees, biodiversity and wildlife

- 7.16 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. Subject to the retention of existing planting within the site and the submission of biodiversity enhancement measures for approval, both of which could be secured by condition. Derbyshire Wildlife Trust have raised no objection to the proposed development regarding the potential impact on ecology on site.
- 7.17 Following receipt of the Arboricultural Assessment (requested by the District Council's Tree Officer) a further consultation response has been received from the Tree and Landscape Officer which raises no concerns with the replacement of the existing hedgerow as this is deemed to be category C (low value). The development seeks to retain the category B (medium value) cherry tree on site and subject to conditions securing appropriate protection measures, it has been considered that it would be possible to retain this tree following the development.

Flood risk and drainage

- 7.18 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

- 7.19 The application proposes the construction of 3 new dwellings in an unsustainable location, outside of any defined settlement boundary which is 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 S4, PD1 and PD5 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 ribbon 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 and PD5 of the Adopted Derbyshire Dales Local Plan (2017), policy H1 of the Brailsford Neighbourhood Plan (2021) and the National Planning Policy Framework (2023).

9.0 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.

The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country

Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

This decision notice relates to the following documents:

Planning Statement

Design and Access Statement

Access Appraisal

Preliminary Ecological Appraisal

FW 114 D52 (rev C) – Illustrative Layout

FW 114 D53 – Site Location Plan

27761_08_020_01 (rev C) – Proposed Access Arrangements