

PARISH Clowne

APPLICATION Erection of 7 dwellings with access off Court View
LOCATION Former Clowne Tennis Club Rood Lane Clowne
APPLICANT Oldrow Developments Ltd
APPLICATION NO. 14/00490/FUL **FILE NO.**
CASE OFFICER Mr T Ball
DATE RECEIVED 15th October 2014

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Assistant Director Planning
REASON: Level of Public Interest

The above Planning Application was considered by the Planning Committee at its meeting on 27th May 2015. It was resolved to defer consideration of the application to allow for further discussions to take place in relation to an alternative access off Rood Lane.

Further discussions have taken place and the following additional information has been submitted to explain the situation with respect to access off Rood Lane:

- There is a parcel of land (shown superimposed and shaded on a plan of the access approved in 2007 (07/00051/OUT) attached to this report – ‘Plan A’) which restricts the available width to provide an access capable of serving the whole development site from Rood Lane.
- The applicant has stated that the registered owner of the land (Mr D E Brough) cannot be traced. Mr Brough may own the rest of the adjoining highway cul-de-sac.
- The tennis club (and therefore the developers) do not have any right of way over the yellow land.
- Evidence of the Right of Way to the tennis club is provided (copies of Land Registry Documents). There is a right of way to the tennis club which has been acquired by the rule of prescription. This extends along Rood Lane from its junction with King Street to the furthest point of the Tennis Club site. This relies on knowledge of the Trustees of Clowne Tennis Club and relates to use of the access by members/guests/visitors. As a result the right of access may be strictly limited to user, based on how it arose. Upon challenge it could be argued that this access did not and does not therefore extend to residential users. The submitted statements to establish the right of access clearly defines the type of user of the right and the reasons for establishment (tennis club users and visitors and for maintenance purposes with machinery). This is supported by legal advice provided by the applicants Solicitor.
- The applicant points out that the previous application attracted many objections from Rood Lane residents in respect of the access, particularly in relation to the amount of traffic at the school drop-off and pick-up times.

- The applicant is therefore of the opinion that they cannot change the proposed access off Court View as they would not otherwise be able to deliver the project.

At the time of the previous application (2007) the occupiers of the adjacent bungalows served by the private access way next to the application site had their boundary defined on the ground (apparently by professional surveyors using deeds to the properties). The extremity of this land extends into the approved access for the proposed development at that time and is shown shaded on the plan attached to this report ('Plan A') and marked by a survey pin in the ground. This has been checked and agreed by the developers and shown to the case officer. If the applicant had access rights along Rood Lane for residential development this would leave insufficient space for a safe access (5.4m).

If the use of Rood Lane as the access to the former tennis club site is to be pursued a new planning application would be needed to include Rood Lane from its junction with an adopted highway (King Street) to the site access with appropriate notice served on owners and occupiers who are responsible for the maintenance of Rood Lane as a private road and a revised layout. Consequently the application as currently submitted and presented to Committee should therefore be determined.

In addition, in view of comments made at the Planning Committee meeting, the applicant has reviewed the dwelling design and is of the opinion that several amendments have been made already to take account of the opinions of the Senior Urban Design Officer, local residents and other consultees, including the highway authority. They have discussed the proposal with a local estate agent who assures them that there is a specific requirement for properties of the design proposed; the proposal adds to the variety of properties available within the local area and will be an asset.

A further letter of objection has been received from an occupier on Court View addressed to the Chairman of the Planning Committee, expressing the view that the applicants should use their right of way along Rood Lane and that the houses proposed are of poor quality and design, very little having been done to revise the house type during the course of the application (although acknowledging that the roof over the garage has been lowered and turned around). The objector considers that the development would encourage crime and disorder as car thieves would dump the car on Court View and escape through the footpath link to Rood Lane (*comment: the footpath link is to be gated with controlled access*); people in wheelchairs or with pushchairs will have to use the carriageway in the new development as the footpaths or berms are not wide enough (*comment: the carriageway is designed as a shared access way with maintenance margins*); and there is disagreement with the highway authority's comments as they are based in Matlock, have no local knowledge and have not taken into account traffic going to the local junior school.

The report considered at the Planning Committee meeting on 27th May 2015 is reproduced below in *italics* including the content of the update report, including the additional recommended conditions, included as appropriate.

THE RECOMMENDATION IS TO APPROVE AS ORIGINALLY RECOMMENDED (as set out below)

SITE

Site of former Clowne Tennis Club which has been unused for some years and allowed to become overgrown. The site has recently been cleared of much of the vegetation including some trees. Hedgerows to the site boundaries (other than the northern boundary which is a mesh fence) generally remain, that along the boundary with 4 Court View, which was an overgrown conifer hedge, has been removed.

The site is within the settlement framework of Clowne as defined by the Bolsover District Local Plan, being a predominantly residential area. A small cul-de sac of bungalows adjoin to the north; Court View to the west comprises bungalows. Adjoining to the south are two bungalows in generous grounds and to the east, across the track leading from Rood Lane, is a mixture of houses and bungalows. This track/Rood Lane is a public right of Way (Footpath 15).

PROPOSAL

Erection of 7 two storey dwellings, with the upper floor in the roof space. The dwellings comprise open plan kitchen/dining/lounge, bathroom, bedroom and integral single garage at ground floor with 2 bedrooms and shower room above. Pitched roof with dormer window to front and back and roof light to shower room at back. Ridge height 7.25m with a 37 degree pitch. Rear dormer omitted and replaced with rooflight to dwelling backing on to the rear of 46 Rood Lane.

Access from Court View to the west, cul-de sac extended by demolition of attached garage to 4 Court View (in applicants ownership). 4 dwellings to the southern side adjoining 46 Rood Lane. 3 dwellings on northern side, one of which, in the north-east corner of the site, is arranged to face the right angle bend of Rood Lane, having a rear elevation with an additional pitch roofed porch feature. Materials of construction a mix of red brick and render with red or blue/black concrete roof tiles.

A gated footpath link is provided between the new cul-de sac turning head at the eastern end of the site onto the track off Rood Lane. It is proposed to use the Clowne Tennis Club gates which remain on the site on this link, with coded lock to prevent general access through the development.

A bin collection area is to be provided on the northern side of the access road alongside 4 Court View.

Provision is made for a replacement garage and parking area for 4 Court View.

1.8m high close boarded fence to be provided to rear boundary with 4 Court View, majority of northern boundary, southern section of boundary to Rood Lane (alongside rear garden to plot 4). Existing hedgerow to be retained to southern side (alongside 46 Rood Lane) and to 6 Court View on the western side. To the north-eastern corner where the site adjoins the right angle bend in Rood Lane a low beech hedge with post and rail fence is to be provided.

Landscaping details are provided.

AMENDMENTS

Original submission revised to that described above following discussions involving the Councils Senior Urban Design Officer and consideration of issues raised by neighbours and other respondents to consultations.

HISTORY

07/00051/OUT: Change of use of land from tennis court to residential development, outline planning permission granted with access from Rood Lane July 2007
06/00232/OUT: Outline application for residential development withdrawn June 2006.
BOL790/381: Detached Bungalow on part of site, withdrawn 1991.
BOL1086/452: Outline planning permission for residential development on part of site (former hard court) approved 1988 subject to S52 Agreement relating to connection to mains drainage.
Change of use of part of smallholding to tennis courts apparently approved 1952 (CLO652/3)

CONSULTATIONS

Consultation has taken place on three occasions, following receipt of the application, and subsequently following the receipt of 2 sets of revisions (January 2015 and March 2015)

Original Responses

Local Highway Authority (DCC): Given the unorthodox layout of the proposal and the low number of dwellings highway authority will not adopt this development. Vehicular access should be a standard vehicular dropped crossing, 2m footway linking to the existing preferable. No objections subject to conditions re site compound etc details; garage/parking not to be used other than for the stated purpose. 12.11.14

Derbyshire Wildlife Trust: Having considered the submitted Phase 1 Habitat Survey, it is considered that the application as submitted is not accompanied by sufficient information in order to demonstrate the presence or otherwise of protected species and the extent that they may be affected by the proposed development. In the absence of adequate information on European Protected Species (i.e. bats), the Local Planning Authority is unable to discharge its duties in respect of regulation 9(5) of the Habitats Regulations.

The proposed development will result in the partial demolition of number 4 Court View. This property (and any trees within the grounds) has not been assessed for their suitability to support roosting bats and a survey to determine their presence or absence has not been completed. This information is lacking from the planning submission and as such we would advise the Council that this information is required in advance of determination of this application.

Notwithstanding the above suggests conditions re avoid nesting season when removing vegetation; submission of measures to retain existing vegetation where possible and incorporate native species into landscaping; submit a biodiversity enhancement strategy. 02.12.14

Urban Design: Detailed comments on proposed layout concluding that the proposals represent a poor layout and the scheme should be amended to address the issues raised. Suggests revisions to layout and house types. 28.11.14

Environmental Health (Contamination): Has reviewed the desktop study that has been carried out for the site. However, this report has not made any mention of the possibility of made ground being present and we have had complaints of fly tipping and storage of building materials on this site. These all have the potential to have caused ground contamination and therefore, in view of the sensitive end use, we would recommend conditions requiring site investigation, remediation scheme with validation, and imported soil to be certified clean. 23.12.14

No responses from: Parish Council; Severn Trent Water.

Consultation responses following reconsultation in January 2015:

Local Highway Authority (DCC): It appears that the amendments are all within the development boundary and the highway authority will not be adopting the development as previously outlined. Therefore no objections to the amendments subject to the previously recommended conditions and notes. 28.01.15

Urban Design: The revisions have primarily sought to address the concerns expressed previously in respect of proximity of buildings to neighbouring properties, by lowering garage heights and handing units to reduce their height close to neighbouring boundaries. In respect of the revised layout, the amended proposal is very similar to that originally submitted and does not fundamentally address the concerns previously expressed. These identify a number of points, which individually represent poorly considered aspects of the proposal, but cumulatively fall short of achieving the high quality design expected by the NPPF. In light of the above comments the revised application is considered to be contrary to Policies GEN1 and GEN2 of the Bolsover Local Plan (2000), policies contained within the NPPF (2012) and guidance contained within the Successful Places Interim SPD (2013). 06.02.15

Derbyshire Wildlife Trust: Has considered the results of the day time inspection carried out following previous comments. Subsequent report concludes no features with greater than negligible potential for use by roosting bats. Notes a feature considered to have low potential for roosting bats which could not be fully inspected on the day of the survey. Advise that an endoscopic examination or single emergence survey to determine the presence or otherwise of roosting bats within the adjacent section of the main building. Without this information application cannot be determined in line with the Habitats Regulations, cannot be left to coverage with a planning condition. 11.03.15

Severn Trent Water: Confirms that no objections subject to a condition requiring submission of drainage plans for surface water and foul sewerage. 19.02.15

No responses from: Parish Council; Environmental Health (Contamination); Streetscene and Waste Services (BDC).

Consultation responses following limited reconsultation in March 2015:

Urban Design: Comments that plot 1 has been handed to prevent overlooking from the first floor toward the gap with the neighbouring garden; plot 3 redesigned with dual aspect to address the frontage with Rood Lane, including a pedestrian access; plots 4 – 7 moved further from the boundary with No 46 to maximise separation, first floor dormer windows arranged to reduce the potential for overlooking with dormers to middle plots positioned to face the gable of the neighbouring bungalow (46), also larger gaps now provided between dwellings and with the introduction of a hipped roof design to the attached garage this all reduces the intensity and perceived dominance of the built form along the side of the site against the dwelling to the south; plot 7 rear dormer has been replaced with a rooflight to reduce the actual and perceived level of overlooking towards the rear garden of the dwelling to the south, dwelling also repositioned to increase the separation from 6 Court View (15m gable to gable). In light of the amendments and subject to appropriate conditions the revised proposals are now considered to be acceptable from an urban design perspective. 20.03.15.

Local Highway Authority (DCC): Revisions show a more traditional layout. Concerned that limited depth of highway (4.6m carriageway with two 0.6 maintenance margins – 5.8m overall) will restrict residents manoeuvring into/out of driveways. 27.04.15 specifies that 6m overall is preferred. 06.05.15.

The Local Highway Authority (DCC) has submitted further clarifying comments dated 15th May 2015. The following is taken from this latest response:

“The Highway Authority initially replied to the above proposal on 12 November 2014, raising no objections subject to various conditions. The existing width and geometry of Court View are considered to be sufficient to cater for the cumulative traffic from the proposed and existing developments. The Highway Authority is not able to demonstrate that the traffic from the proposed dwellings would result in sufficient harm to the conditions of highway safety or capacity to provide a defensible reason to resist the development on technical grounds.

“This should not be construed or interpreted as meaning that the generated traffic resulting from the development is regarded as having no effect on the adjacent highway. The Authority must be mindful, however, that in the event of an appeal against a refusal of planning permission the reasons must be defensible with, where necessary, the assistance of empirical data. In the highway context it must be demonstrable that the generated traffic will result in material harm relative to existing conditions on the road network.”

“Since this initial response this Authority has been provided with additional comments with regard to various revised designs, the latest of which was received on 11 May 2015, to which I would offer the following comments.

“Within the latest revised plan the applicant has increased the carriageway width up to 4.8m and whilst they have also shown a 6m gap on the plan (4.8m carriageway + two 600mm margins), the margins (berms) are not provided in front of the driveways, resulting in the effective gap remaining at 4.8m.

“The effective gap is therefore below the recommended 6m to enable residents to manoeuvre to and from their driveways; however, the applicant has demonstrated by means of swept path analysis that a car can reverse into a drive, manoeuvring within the confines of the estate street. Therefore, whilst the Highway Authority still has concerns with regard to the ease of access for residents, particularly if a vehicle is parked on the estate street, it is considered that highway reasons for refusal would be unsustainable should the application go to appeal.

“Please note that whilst a more orthodox layout has now been proposed the development would still not be considered for adoption.

“As noted earlier the principle of development has already been considered acceptable. Accordingly there are no highway objections to the above proposal..”

The Highway Authority suggests conditions relating to site compound details, internal garages retained as such, and no occupation until space is provided for the storage of refuse bins on collection day.

Streetscene and Waste Services (BDC): No response received.

PUBLICITY

Notification of 13 neighbours and site notices have been posted on three occasions, following receipt of the application, and subsequently following the receipt of 2 sets of revisions (January 2015 and March 2015).

Original Responses

13 Letters received (4 of which from same person raising different issues):

Site is bounded on 3 sides by bungalows, ridge heights of proposed dormer bungalows will dominate the area and be out of character. In respect of 20 Rood Lane will be intrusive and overbearing with overlooking and loss of natural light to the front; proposed turning circle is close to rear bedroom. In respect of 46 Rood Lane the five dwellings appear intrusive causing loss of light, and privacy, with noise levels going from 0 neighbours to a potential 20.

Bungalows to 3 sides of site; proposed ridge height of 7.25m would be intrusive, dominate the area and be out of character. Plot 1 will block natural light from 20 Rood Lane for most of the day; there should be no gates onto the private drive serving 16 – 20 Rood Lane

Design & Access Statement is written as if Rood Lane is the access to the site, clearly proposed access off Court View is a last minute change for financial reasons (avoiding bringing Rood Lane to adoption standard). Access destroys unique characteristics of Court View, a small quiet cul-de-sac of 5 bungalows. Court View is only 4.6m wide with a swept entrance on the northern side. New road will be 4.8m wide. Existing driveway sightlines are poor. Currently with the low volume of use access and parking is not a problem, with a 140% increase in the number of properties served by Court View parking of visitor cars will become a problem and use of driveways difficult. No footways for new section of road. No access/parking shown for no 4. Proposed drainage plan is pure fantasy and fiction, assumes suitable drainage in the highway; they are wrong; drainage is not where shown or off sufficient capacity.

Court View is a narrow road 4.6m carriageway with one 1.2m footway. Large vehicles passing a car have to mount the pavement. This will be worse with building works. More cars will be using the small space of Court View; this will create a very dangerous and unsafe environment .

Proposed surface of extension in red and black pavers would be aesthetically unappealing. Property to rear of 6 Court View is against boundary leaving no room to maintain hedge and had 2 overlooking windows. Should be at least 3m away from hedge.

Plots 3 – 7 appear linked being squeezed into the site and not aesthetically pleasing, whole site needs better configuration.

Applicant claims there is a need for bungalows but is proposing 2 storey dwellings. Plenty of new houses being built elsewhere in Clowne, requirements for single storey dwellings is not being met.

There is no sewer down the roadway of Court View.

Various photographs provided to illustrate issue on Court View.

Loss of privacy, dormer bungalows will overlook all surrounding properties. All properties to 3 sides are bungalows, proposal is not in keeping. Appears to be over development of the site.

Rood Lane a more substantial road for access, less interference to residents. Assumed drainage is incorrect. Please include restrictions during construction; no parking on Court View, work starts at 08.00, delivery restrictions due to proximity of school, new road before any building and provision of site parking/deliveries. No objection provided residents are protected.

Dwellings on this land should be in keeping with the surrounds, i.e. bungalows, not 2 storey buildings with dormer windows to the first floor. There have been problems with drainage for some of the adjacent properties in the past; there is no drain along Court View. Rood Lane is the natural access into the site, tennis club used Rood Lane as the access. Court View will be cheaper than making good the full length of Rood Lane. Making up of Rood Lane will benefit the residents of Rood Lane. Would only be a 23% increase in traffic along Rood Lane rather than 140% increase on Court View. Proposed footways to new road are too narrow with obvious safety concerns. No parking shown for 4 Court View. Object on safety, environmental and social grounds. The land does not need to be developed.

Adversely affected by plots 3 – 7 overlooking our front and rear gardens (48 Rood Lane), currently not overlooked and will mean loss of treasured privacy. We and neighbour use our front gardens in the same manner as the back, high hedges and trees maintaining privacy. Proposal is overbearing and out of character in terms of layout and appearance compared to existing properties in the vicinity. Neighbours property (46 Rood Lane) will go from none to 20 persons adjoining boundary with increased noise and disturbance. Pressure for development in the village is low due to the large scale development currently being built. Would support the construction of fewer single storey properties more considerably laid out and the retention of the tree line.

Court View not suitable as an access; new road will be too narrow by No. 4 Court View with only a 600mm wide path. Concerned about drainage. Limited space for passing vehicles particularly when visitors parked on Court View. Suggest conditions to minimise impacts on residents of Court View: condition of road after development; no working before 8.00am; drainage details as no foul drainage in carriageway; parking restrictions on Court View for builders; new road before any building works.

Five properties directly overlooking front and rear garden (46 Rood Lane), no part of garden would be private or affected by noise. Would completely change the character of my home and that of other bungalows on Rood Lane. Overbearing and out of character in terms of appearance and layout compared with existing properties in the area. Would be less disruptive if properties adjoined the two surrounding roads. Would support single storey properties. Proposed fence on boundary would have to be significantly higher to retain privacy.

Neighbour response to highway authority response: proposed access is 4.8m wide, Court View is only 4.6m wide. Parking on Court View will become a problem with the potential 140% increase in traffic from the new development, existing drives have limited visibility, this becomes of concern with the traffic increase. If access were off Rood Lane increase in traffic would only be 23%. Access should be from Rood Lane which will be much safer. Neighbour response to urban design comments: Agrees with comments about the layout and type of building being poorly thought out. Considers a footpath link onto Rood Lane would be

disastrous, Court View would become a parking place for parents taking children to school. Provides a comparison of heights between a bungalow, dormer bungalow and 1.5 storey dwelling.

Letter of support from Trustee of Clowne Town Tennis Club: Fully intend that the proceeds of the land sale will be put back into the community to create tennis opportunities in this part of Bolsover. Current site has been unused for a long time and is no longer suited to sport use being restricted and on the narrow unadopted road.

Responses following reconsultation in January 2015:

5 Letters of objection and one of support:

Overdevelopment, not sympathetic to the area; surrounded by bungalows, proposal is 2 storey unsympathetically designed to appearance of existing properties, excessively cramped in relation to each other and to site boundaries; revisions are minimal do not address the substance of the criticisms; profound negative effect on character of the area.

Increase in traffic on Court View by 140%, designed for small number of dwellings; narrow carriageway it being difficult to pass parked vehicles.

Drainage, that on Croft View designed to meet the needs of existing properties, and prone to blockage; developers proposal based on unsubstantiated assumptions.

Letter (from Court View resident) pointing out that the letter of support received is from the applicant who owns no 4 Court View.

Tennis club was a private club and not a community asset, great play is made of the monies from the sale to go back into the community for developing sports facilities but no detail of where and when the monies would be spent.

There is no uncertainty in the area over the future use of the site, neighbours are perfectly happy with it as it is.

Rear of property (48 Rood Lane) is not overlooked at all, will suffer loss of privacy despite the separation distances. Change of use from recreational to residential will increase the value of the land hugely, therefore commercial viability ought to be achievable.

Overbearing and out of character in terms of appearance and layout compared to existing properties in the area.

Would support the construction of fewer single storey properties continuing the build lines, density and style of bungalows along Rood Lane. The correct development could enhance and continue the charming character of Rood Lane for the benefit of all, for ever.

Refuse vehicles have always experienced difficulties reversing up Court View due to geometry of junction. Ringer Lane has become busier in recent years making this a more hazardous junction.

Objects strongly to revised plans, fundamental impact on family, home and garden is unchanged (46 Rood Lane). Previous comments stand and apply equally to this proposal. In addition: will have 5 properties directly overlooking garden, a quiet private amenity enjoyed by myself, family and friends; Developer labours the point of guidelines on separation distances, asks for Planning Committee to visit the property to put this into context, the proposal is not a single property at a minimum guideline distance but five. Every part of

garden will no longer be private. Retention of hedge will not prevent overlooking, just diffuses it at ground level being sparse and deciduous, in addition part of hedge is within own boundary. Feels development contravenes Article 8 of the Human Rights Act in respect of the right to respect for private and family life.

Proposed 5 dwellings will bring noise and disturbance where currently there is none. Appearance does not respect the local context and street pattern. In particular scale, style and proportions of surrounding buildings are not maintained. Would demonstrably harm the amenities enjoyed by residents of Court View and Rood Lane – safe and available on-road parking, change of use of this green space and our right to enjoy a quiet and safe residential environment. Layout would be less disruptive if the bulk of properties adjoined the 2 surrounding roads, was accessed by Rood Lane and in keeping with the build lines of Rood Lane.

Letter of support from owner of 4 Croft View (which is shown on the application plans as within the control of the applicant). Scheme has been revised to take account of Urban Design and local residents views which should be commended. Site has a history of granted planning permissions; the applicant is committed to the development this time. Site is held in trust and all monies received from the sale of the land will go back into the community developing sports facilities.

Responses following reconsultation in March 2015:

4 letters of objection and one of support:

Object strongly to the revised plans as the fundamental impact the development would have on my family home and garden is unchanged (46 Rood Lane). Content and points made in previous letters stand and apply equally. In addition:

Loss of privacy, amenity and overlooking; still have properties directly overlooking garden. Even with the slight changes no part of garden will be private. As a minimum improvement skylights to all the first floor rooms would mitigate the overlooking. Planning restrictions should be placed to prevent changes under permitted development rights. Retained hedge will not prevent overlooking.

Potential families will bring noise and disturbance where currently there is none.

Also object to appearance of the properties which do not respect the local context and street pattern; scale, style and proportions of the surrounding buildings are not maintained. Site should be developed with single storey bungalows aligned to current roads to north and east borders.

Same points made by residents of two properties on Court View:

Continuing objection of highway safety grounds with extra traffic on narrow Court View and extension at same width without full width footway. Access and bin collection should be from Rood Lane. Locked footpath link onto Rod Lane would not work and would be vandalised or fence broken down; would be used by parents accessing the junior school, would park on Court View and use footpath onto Rood Lane.

Prefer single level properties in keeping with the surrounding properties. Questions boundary treatment to north side of 4 Court View (which is outside the application site). [Anonymous , no address or name given]

Support from legal owner of 4 Court View.

POLICY

Bolsover District Local Plan (BDLP)

Site shown as within settlement framework, general urban area policies apply, of particular relevance will be policies GEN1 (Minimum requirements for Development), GEN2 (Impact of Development on the Environment), HOU2 (Location of Housing Sites), CLT6 (Existing Outdoor Playing Space and Amenity Open Space).

National Planning Policy Framework

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration with a presumption in favour of sustainable development. As the Bolsover District Local Plan was adopted prior to 2004 due weight should be given to its policies according to their degree of consistency with the NPPF.

A core principle is to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings within a presumption in favour of sustainable development. Local Planning Authorities should have a 5 year supply of deliverable housing, without such a supply policies relating to the supply of housing are considered to be out of date.

Other (specify)

Interim Supplementary Planning Document: 'Successful Places, a Guide to Sustainable Housing Layout and Design' (2013) which provides guidance to help provide places that enhance the quality of life.

ASSESSMENT

Principle

The principle of the residential development of this site has been established with the previous planning permission in Jul 2007. Since that time the former tennis courts have remained unused and overgrown and there has been no change in circumstances to resist the principle of the residential development of this site. It remains within the settlement framework and is not identified as an existing outdoor playing space protected by policy CLT6 in the Bolsover District Local Plan. The site is well located to access local services and its release would contribute to the Councils 5 year supply of deliverable housing. The Council does not have such a supply at the present time.

Access

In considering the principle of residential development on this site, the main change from the outline planning permission is that access is now proposed off Court View and onto Ringer Lane, rather than from an access onto Rood Lane (the alignment of which was approved on the outline planning permission). That outline planning permission included a condition requiring the making up of Rood Lane, which aligned with a similar requirement upon the development of Ivy Close.

Taking into account the nature of Court View (a narrow cul-de-sac serving 5 bungalows), the issues raised by the occupiers of that Close, and the need to demolish an attached garage to gain access to the site, access would be more appropriate off Rood Lane, although the

highway network to Rood Lane (King Street) is not ideal. However the applicant claims ownership difficulties for such an access, meaning there is insufficient room for a suitable access (although no evidence to support this has been submitted). There are no objections from the local highway authority on highway safety grounds to the use of Court View for access which is an adopted highway. The latest revised plans now show a carriageway width of 4.8m with 0.6m maintenance margins either side to serve the new dwellings, although the highway authority have indicated that they will not be adopting the new highway. Court View will not be altered.

Parking provision is made for 3 spaces per dwelling (garage plus two external spaces each). All dwellings are 3 bedrooms. As a result it is not felt necessary to restrict use of the garages as requested by the highway authority in this instance.

It is considered that two additional conditions should be included one relating to the bin collection area and another requiring the provision of 2 parking spaces for 4 Court View to replace those lost to the access to the development.

The layout makes provision for a controlled gated pedestrian access from the new development onto Rood Lane (a definitive footpath). It is proposed to re-use the Clowne Tennis Club gates which remain on site for this purpose. Control (e.g. through a coded lock) is provided to prevent the footpath becoming a through route from Ringer Lane/Court View and to discourage school users from parking on Court View.

Character

The proposed development comprises 7 two storey dwellings of similar design with the upper floor within the roof space. There is one dormer to each of the front and back elevations of the dwellings (except for one where the rear dormer has been replaced with a rooflight to reduce the potential for overlooking to the rear). The dormers have a pitched roof at approximately 5.9m above ground level, with the main ridge at 7.25m above ground level. From information supplied by the applicant the proposed dwellings would be 3.27m higher than the bungalows on Rood Lane (typically around 4m to ridge). This proposed cluster of higher ridge dwellings would be located within an area of smaller and lower single storey dwellings, although adjoining to the east across Rood Lane are houses and the Ivy Farm Close development of houses.

The layout has been revised following discussions with the Council's Senior Urban Design Officer so that the development comprises 4 dwellings (instead of 5 on the southern side and 3 dwellings (instead of 2) on the northern side. The dwelling in the north-east corner has been angled towards the right angle bend in the surfaced section of Rood Lane and designed to have a dual frontage with appropriate boundary treatment and pedestrian access to Rood Lane.

In addition the design of the dwellings have been revised such that the single storey element, comprising the integral garage and kitchen behind has a lower hipped roof rather than the originally submitted pitched gable roof with a ridge only 0.85m below the main roof ridge. This means that the visual massing of the development is considerably reduced introducing openness at first floor level between units.

The proposal would therefore not be inappropriate in this area and has been revised to reduce its visual massing.

Amenity

In terms of overlooking, impact on privacy, and sunlight/daylight impacts, the proposed development meets the minimum guidelines given in the Council's Interim Supplementary Planning Document: 'Successful Places'.

To reduce the effect of direct overlooking from new houses the 'Successful Places' Document indicates that first floor habitable room windows directly facing a rear boundary should not normally be sited closer than 10.5m to the boundary of an adjoining residential garden.

The four dwellings backing onto 46 Rood Lane to the south have between 11.4m and 12.8m between the ground floor rear windows and the rear boundary with the adjacent dwelling. The rear facing dormers at first floor are set back a further 1m. The design of the dwelling facing the rear garden to 46 Rood Lane has been revised to replace the rear first floor dormer with a roof light, the two central dwellings have been designed so that their dormer windows face the gable end of the bungalow to the south and the eastern most dwelling has its dormer placed furthest away from the adjoining bungalow facing towards its driveway and Rood Lane, so reducing any perception of overlooking.

The hedgerow along this southern boundary is deciduous and due to its maturity is sparse in places particularly during the winter period. It would therefore be reasonable, to reduce the potential for overlooking, loss of privacy, noise and disturbance to require by condition the provision of a 1.8m close boarded fence inset from the hedgerow to allow for its retention. The dwellings on the northern side of the site have also been sited and designed to reduce overlooking and loss of privacy.

Other Matters

Derbyshire Wildlife Trust have requested further investigation of potential bat roosts within the roof space of 4 Court View. This bungalow is to have its garage and related link to the main bungalow demolished to make way for the access into the site. The parts to be demolished have been investigated and no evidence of bats discovered. As the remaining bungalow is to remain (and therefore the potential for roosting using the identified feature) it is not considered necessary or reasonable to require further survey work.

Environmental Health indicate that the submitted desk top study makes no reference to the possibility of made ground being present nor of the previous presence of fly tipping and building materials. In view of the sensitive end use a further detailed investigation is recommended.

Severn Trent Water has requested a condition requiring drainage details which in view of comments made by neighbours is considered reasonable. It is anticipated that the site can be drained using the system installed for Ivy Close which drains eastwards to King Street.

Listed Building: None affected.

Conservation Area: n/a

Crime and Disorder: Development of the site will remove a potential site for crime and

disorder.

Equalities: No issues raised.

Access for Disabled: No issues raised.

Trees (Preservation and Planting): Various self set trees etc have been lost with the partial clearance of the site. Most hedgerows are being retained and some new hedging planted.

New tree planting is to take place as part of the landscaping of the development.

SSSI Impacts: n/a

Biodiversity: Change from overgrown area to residential gardens although with retention of significant hedgerows to south, south western and eastern boundaries.

Human Rights: It is generally recognised that the application of normal planning guidelines and policies is adequate to meet the balance that needs to be struck to protect the rights of all parties in relation to the enjoyment of their property. As set out above it is considered that the design and layout of the scheme has met the guidelines adopted by the Council and complies with the policies applicable. It is considered that in this case the impacts are not so great as to prevent the enjoyment of the affected property.

Conclusions

The proposal is for the development of an unused and overgrown area of land within the settlement framework of Clowne, at a time when the Council does not have a 5 year supply of housing land as required by the NPPF. It is accepted that the proposed development will have impacts on the adjoining dwellings; however the layout and design of the dwellings have been revised to take account of the issues raised to mitigate such impacts. The design and layout comply with (and generally exceed) the minimum guidelines within the Councils interim Supplementary Planning Document 'Successful Places' as they relate in particular to overlooking, and loss of privacy and amenity. There are no objections from the highway authority to the proposed access.

The proposal is therefore considered to be sustainable development within the terms of the NPPF and is in general compliance with the policies of the Bolsover District Local Plan.

RECOMMENDATION

APPROVE

Subject to conditions:

- 1. The development shall be begun before the expiration of three years from the date of this permission. To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.*
- 2. No development other than site preparation works shall commence on site or on a part of the site until provision has been made for the satisfactory disposal of foul and surface water from the site or that part of the site in accordance with a scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied or brought into use until the approved foul and surface water drainage works are complete. (To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in compliance with policies GEN2, GEN5 and GEN6 of the Bolsover District Local Plan.)*
- 3. Before any operations commence on the site details of site accommodation, storage of plant and materials, parking and manoeuvring of site operatives and visitors vehicles, loading unloading and manoeuvring of goods vehicles shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented*

before any operations commence on site and maintained free from impediment throughout the duration of construction works. (In the interests of highway safety and residential amenity as Court View is a narrow highway, and in compliance with policies GEN1 and GEN2 of the Bolsover District Local Plan.)

4. *Prior to the occupation of a dwelling its parking spaces and the highway to Court View shall be provided to at least base course in accordance with the submitted plans (Drawing No. 0041/14/02 001 Rev K). (In the interests of highway safety and in compliance with policies GEN1 and GEN2 of the Bolsover District Local plan.)*
5. *Before construction commences on the erection of any building or wall representative samples of the materials to be used in all external wall and roof areas shall first have been submitted to and approved in writing by the Local Planning Authority. (To ensure a satisfactory standard of external appearance and in compliance with Policy GEN2 of the Bolsover District Local Plan.)*
6. *The landscaping details shown on drawing No, 0041/14/02 010 Rev E shall be implemented prior to the occupation of a related dwelling or for the soft landscaping no later than the first planting season following the occupation of that dwelling. Additional 1.8m high screen fencing shall be erected along the southern side of the site (the rear of plots 4 – 7 inclusive) on the house side of the hedge to be retained along the southern site boundary no later than the occupation of the related dwelling. (In the interests of visual amenity and the private residential amenity of adjoining residents, in compliance with policies GEN1 and GEN2 of the Bolsover District Local Plan.)*
7. *If within a period of five years from the date of the planting of any tree or shrub in accordance with condition 6 above, that tree or shrub may die, be removed, uprooted or become seriously damaged it shall be replaced by another of the same species during the first available planting season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority. (To provide a reasonable period for the replacement of trees and shrubs in the interests of the visual amenity of the area and in compliance with policy GEN1 of the Bolsover District Local Plan.)*
8. *Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until paragraphs a to d of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition d has been complied with in relation to that contamination.*

a. Site Characterisation

An investigation and risk assessment, in addition to the assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;*
- (ii) an assessment of the potential risks to:*
 - human health,*

- *property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,*
- *adjoining land,*
- *groundwaters and surface waters,*
- *ecological systems,*
- *archeological sites and ancient monuments;*

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b. Submission of Remediation Scheme

A detailed remediation scheme if required following the investigation and risk assessment to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

d. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of paragraph a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of paragraph b, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with paragraph c.

(The site has the potential to be contaminated because of past uses on or near the site and to ensure all contaminated land is dealt with without risk to human health and wildlife, in compliance with policies GEN2 and GEN4 of the Bolsover District Local Plan.)

9. No dwelling shall be occupied until space has been provided in accordance with drawing No. 0041/14/02 001 Rev K for the storage of refuse bins on collection day. *(In the interests of highway safety to ensure refuse bins can be conveniently emptied without undue obstruction of the highway and in accordance with policy GEN1 of the Bolsover District Local Plan.)*

- 10 Following demolition of the garage to 4 Court View two replacement off Street car parking spaces shall be provided in the position shown on drawing No. 0041/14/02 001 Rev K no later than the occupation of that dwelling. *(In the interests of highway safety and in compliance with policies GEN1 and GEN2 of the Bolsover District Local Plan.)*