

PARISH Barlborough Parish

APPLICATION The erection of two dwellings with associated amenity and car parking areas

LOCATION Land South Of 5 Sycamore Lane Barlborough

APPLICANT N/A C/O Fisher German, The Estates Office, Norman Court, Ashby-de-la-Zouch, LE65 2UZ

APPLICATION NO. 21/00404/FUL **FILE NO.** PP-09578169

CASE OFFICER Mrs Karen Wake (Mon, Tues, Wed)

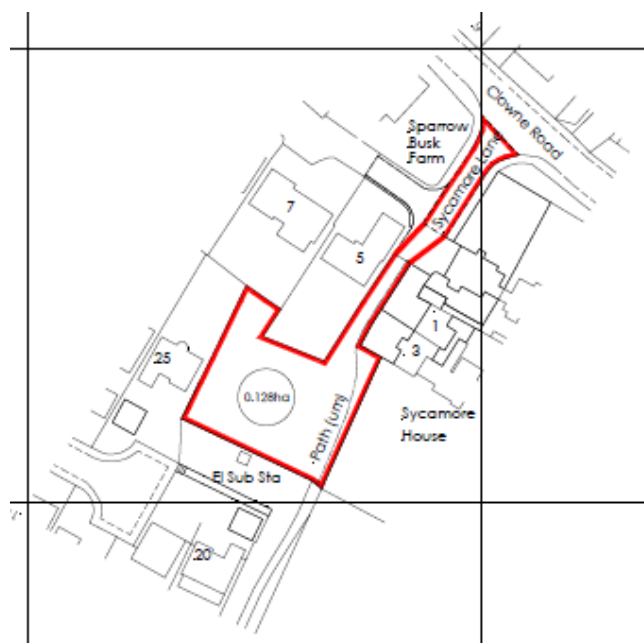
DATE RECEIVED 5th July 2021

SUMMARY

This application has been referred to the Planning Committee by Councillor M Dixon and Councillor T Munro given the concerns of local residents about the impact of the development.

In summary, the application is recommended for approval. The applicant has made amendments to the proposal following concerns raised by the Conservation Manager, Derbyshire Wildlife Trust and the Highway Authority. The amended proposal still has some impact on the character and appearance of the conservation area and the setting of listed memorials but this less than substantial harm has been outweighed by the public benefit of providing custom and self-build properties for which there is an identified need. The concerns in relation to public safety have also been addressed by amendments which satisfy the Highway Authority. On this basis the proposal accords with most policy requirements, subject to the inclusion of suitable conditions.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 21/00404/FUL

SITE & SURROUNDINGS

The site is within the development envelope and the conservation area of Barlborough village, and is adjacent to two Grade II listed stone memorial arches.

The site has historically been used as allotments but has more recently been leased to one local resident for use as a private garden for the private recreational and amenity use of the tenant only.

The site is within a predominantly residential area with two storey dwellings and gardens to the north, east and west of the site. To the south of the site is a grassed area containing an electricity sub-station beyond which are further two storey dwellings. The site slopes down slightly north to south with dwellings to the north set slightly higher than the site and dwellings to the south set significantly lower. The site is surrounded by a mixture of boundary treatments including fences, hedges and trees and a wall. A public right of way crosses the site from north to south.

PROPOSAL

The application is submitted in full for the construction of two, two storey three bedroom dwellings. Each dwelling has a private garden. One of the dwellings has two parking spaces, the other has three. The proposal includes a long driveway and shared turning area on site which is large enough to accommodate small service vehicles. The dwellings are intended for people on the council's custom and self-build register.





AMENDMENTS

The proposed dwellings have been amended from a four bed and a three bed dwelling to two three bed dwellings and an amendment to the site layout.

Amended elevations have been provided to show the dwellings in relation to the existing and proposed land levels.

An amended block plan shows the whole of the access in permeable surface with the public footpath 2m wide, identified by contrasting colour paving and signage installed in relation to the footpath.

Details have been submitted in relation to a bin store and refuse disposal and a construction management plan has been submitted.

An ecology report and biodiversity small sites metric, a heritage impact assessment and a statement of public benefit have been submitted.

The application has been amended to propose two custom and self-build dwellings to be available to people on the custom and self-build register.

HISTORY

No relevant planning history.

CONSULTATIONS

Barlborough Parish Council

The site is in the conservation area and should be left as allotments. Highways should reject the proposal as it will cause more parking issues. Existing properties have limited parking and this causes access issues to the allotments already. Development will compromise safety on this well used public footpath. No more houses should be allowed to be built in Barlborough until the issue on the roads has been addressed.

Bolsover District Council (Conservation Manager)

The applicant has now provided sufficient detailed information in accordance with the requirements set down in the NPPF and local plan policies. Despite the conclusions outlined in the Heritage Impact Assessment the infilling of this plot with 2 detached properties, associated parking and hard landscaping will have a material impact on the character of this part of the conservation area and the wider setting of the adjacent memorials. It is considered that the views to and from this historic thoroughfare and area of open space do contribute to the overall sense of place found in this part of the conservation area and these views will be affected by the development. However, the harm caused will be considered less than substantial.

Bolsover District Council (Environmental Health Officer)

The site has previously been used as allotments and historical use often includes burning of waste which can cause ground contamination. The development also involves the removal of made ground and hard standings which could expose contaminated fill materials. A phased contaminated land investigation condition should therefore be included on any permission

Bolsover District Council (Senior Engineer)

The sewer records show a public sewer within the area of the proposed work. The applicant should also be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the applicant should be advised to contact Yorkshire Water in order to determine their responsibilities under the relevant legislation.

All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.

The developer should provide detailed proposals of the disposal of foul and surface water from the site and give due consideration to the use of SUDS, which should be employed whenever possible. Where SuDS features are incorporated into the drainage design for developments of between 2 and 9 properties it is strongly recommended that the developer provides the new owners of these features with sufficient details for their future maintenance.

It is essential that any work carried out does not detrimentally alter the structure or surface of the ground and increase or alter the natural flow of water to cause flooding to neighbouring properties. The developer must also ensure any temporary drainage arrangements during construction gives due consideration to the prevention of surface water runoff onto the public highway and neighbouring properties.

Derbyshire County Council (Archaeologist)

The application site is within the Barlborough Conservation Area, at the south-eastern limit of the historic extent of Barlborough village as shown on historic maps during the 18th and 19th centuries. On the basis of the first edition OS map, the land in question appears to have been a paddock and orchard, no structures or other development is depicted here. Taking this into account, along with the modest scale of the proposals, archaeological input to the scheme is not required.

Derbyshire County Council (Highways)

No objections to amended plans subject to conditions requiring provision of bin store, parking and turning in accordance with approved plans, construction to take place in accordance with approved plans, access to be no steeper than 1:14.

Derbyshire County Council (Rights of Way)

No objections to the amended block plan.

Derbyshire Wildlife Trust

There are no significant protected species constraints to developing the site and enhancements have been suggested in the form of bat and bird boxes.

The biodiversity net gain section of the ecology report has been updated to reflect some minor revisions. A net loss of 0.2390 habitat unit loss (72.18%) is still predicted, however, due to the increase of hedgerows within the Site, a 0.1402 hedgerow unit gain (37.70%) is now anticipated. This is a small improvement to the original plans.

The Local Planning Authority may decide to accept this small loss of habitat units, considering local plan policy wording (SC9) which requires significant harm to biodiversity to be avoided. It is fair to conclude that significant harm will not result from this application. However it also states that “relevant development proposals will be required to include proportionate measures to contribute, where possible, to a net gain in biodiversity and/or geodiversity, through the creation, restoration, enhancement and management of habitats and features including measures that help to link key habitats”. A net loss is contrary to the aims of the NPPF 2021 and also the Environment Act 2021 (mandatory 2023).

If a small loss is not acceptable, a commuted sum based on the loss of units could be paid to the LPA to fund local biodiversity projects or to a habitat banking organisation. Compensatory

offsite habitat creation by the applicant is considered likely disproportionate for very small schemes.

If the Local Planning Authority are minded to approve this application, conditions are suggested requiring no site clearance during the nesting season unless preceded by a nesting bird survey and the biodiversity enhancements referred to in the ecology appraisal be implemented in full and maintained thereafter.

Western Power

Western Power Distribution have existing underground cables and a substation within proximity of the proposed development. The applicant should contact Western Power Distribution when the development layout and site entrance has been finalised as this may affect our apparatus. It may be necessary for the developer to undertake hand dug trial holes to determine the exact location of the cables. Consideration must be given should any excavation or ground level works be required. Attention is drawn to the Health and Safety Executive (HSE) documents HSG (47) Avoiding Danger from underground services. Further documentation can be found on the WPD website.

PUBLICITY

Site notice, press notice and press notice and 25 neighbours notified. Objections received from 18 neighbours including one local councillor which raise the following issues:

1. The only access to one of the adjacent houses is via the public footpath and access will need to be retained 24/7 without disruption with enough room to get a mobility scooter and double buggy down the path.
2. Parking on Sycamore Lane is very limited and the proposal will make this worse by removing an area currently used for parking to take access to the development.
3. Construction vehicles and vehicles belonging to the new residents once the dwellings are constructed will pose a danger to pedestrians using the footpath and to local children playing as the driveway is alongside the footpath. The proposal will result in a loss of green space. The allotment is used by residents on a regular basis.
4. The access is not wide enough for a driveway adjacent to the public footpath to be provided safely. This is a well-used path, particularly for parents walking children to the primary school. Safe access on this path needs to be maintained at all times.
5. The site has been used as an extended garden and drying area for existing properties for a considerable time and current residents actively manage the allotments and veg plots contributing to local biodiversity. The loss of this area would be of significant detriment to existing residents and the village.
6. The area would be better left as an area of open space.
7. If development is to be approved single storey dwellings would be more acceptable to the surrounding area.
8. The site has been used for allotments for at least 27 years and they are the last remaining allotments in the village. In a time of environmental awareness and encouragement to produce one's own produce, the plot should become a productive allotment again either for interested individuals or a community group from the village rather than the site of two dwellings in an already over populated area. If not this part of the conservation area will be lost forever.
9. The conservation area is also the site of two Listed historic monuments. The proposal

would be harmful to the setting of these monuments.

10. The proposed materials being used in the construction of the dwellings would also be out of character with the stone wall and Listed monuments, Two storey dwellings were proposed on Bluebell Close which is also within the conservation area but they were rejected and single storey stone dwellings constructed instead at a specified distance from the monuments in order not to spoil the outlook of the monuments within the conservation area. The current proposal is less than 20m from the monuments and would not fit in with the character of the conservation area.
11. Clearing the site would have a serious effect on biodiversity in the area as the site is home to a vast variety of wildlife, birds and bees.
12. There is insufficient room for vehicles to park on site without causing safety issues for pedestrians using the footpath.
13. The area often becomes a gathering place for local residents which promotes positive mental wellbeing especially during lockdowns.
14. The development would be harmful to residents on Sycamore Lane. It is a small congested area where parking is difficult. Lorries and vehicles entering the site will make this problem worse and make it dangerous. Residents may have to park on the highway exposing them to risk and resulting in Sycamore Lane being difficult to access and exit. Residents also have to cross the Lane to put the bin out and this would become unsafe.
15. The access road to the site is not publically maintained it is maintained by residents. Who will be responsible for repairs to the road if it is damaged by construction vehicles? Ongoing maintenance of this road also needs to be considered.
16. The development is unnecessary given the residential developments planned and in progress in the ready. The area already exceeds government targets for new housing development.
17. Existing property in the area has been designed and constructed giving appropriate consideration to the sensitivity of the locality which includes a designated conservation area. The design of the development and the loss of a significant area of greenspace is not sensitive to the context of its surroundings.
18. The proposal will cause noise and disruption to existing residents as the driveway proposed is immediately adjacent to the side boundary of an existing dwelling.
19. The land has, since the 1800s, been used as allotment gardens to Nos 2, 4, 6 and 8 Sycamore Lane, but these cottages have now been sold separately. A former tenant of No 2 Sycamore Lane, used the allotment during his tenancy of over 50 years, and also a section was rented by a resident of Clowne Road for over 40 years.
20. The allotments were brought into the Barlborough Conservation Area in 2001, along with the orchard on the southern boundary of Sycamore House. The Planning Committee on 18, July 2001, reported that:
“The allotments are in use and they provide an attractive green space at the bottom of Sycamore Lane adjacent to the start of the public footpath that heads south to the site of the former Slayley Farm which complements the surrounding area. The allotments are shown on the 1962 County Land use survey maps of the area and they formed part of the settlement area at that time.....”.
21. Approximately twelve years ago, Sitwell Estates erected a fence at the entrance to the site to protect the public footpath and prevent vehicular access into the allotments. At present, the whole allotment is rented from the Sitwell Estate by the resident of No 1 Sycamore Lane, and is being used as an allotment and amenity/drying area. These allotments are the only allotment space remaining in Barlborough. Clowne Allotment

Society have stated that they are unable to fulfil the requests for allotment space in their area and have a waiting list and several local residents are seeking allotment land. A list of interested parties has been submitted.

22. The Local Plan for Bolsover District sets out the need to pay special attention to development in conservation areas, protect public footpaths, protect green spaces, and also notes the requirement for adequate parking provisions. References to these items in the document are:

Policy SC16 Development in Conservation Areas: Consideration is to be given to important buildings in the area, as well as trees, landscaping and important views in or out of the area.

Policy ITCR3 Protection of footpaths: Development should not adversely affect an existing footpath or bridleway.

Policy ITCR6 Protection of green spaces: "Development will be permitted where it does not result in the loss of existing green spaces, including **allotments**, village greens..... Proposals resulting in a loss will need to provide a satisfactory replacement facility, unless the proposal was of greater overall benefit to the local community than existing or realistic potential uses of the green space."

Policy ITCR11 Parking Provisions: Parking provision should provide a safe and secure environment, minimise conflict with pedestrians and/or cyclists and make provision for service and emergency access.

The document also states that the 5 Year Housing Land Supply has been met for the next 5 years and Bolsover District Council Planning Committee Meeting Minutes, dated 13 January, 2021, also confirms that the housing provision has been met and, in fact, has a 5% buffer, with sufficient requirements for the next 10.7 years.

23. The application form and design and access statement contain inaccuracies.
24. The tree survey states the proposal is to retain a number of trees, most of which belong to third parties and are not on the site, and over which the developer has no control, other than to prune where they overhang the site. This would mean extensive pruning of well established trees to the eastern and southern boundaries of 5 Sycamore Lane.
25. Paragraph 4.1.1.11 of the Tree Survey states, "all trees to be retained should be protected with a tree protection fence in accordance with BS5837; 2012 current recommendations." With regard to the tree protection plan, how is construction traffic to access the site taking into account the "no dig" construction for the new driveway, the root protection area and fencing, and protection of the existing public footpath?
26. The site is to be over developed for its size. The siting, scale and positioning of the dwellings is unsympathetic to surrounding properties. There is no garaging space within the scheme, and the turning area to the south of the site appears inadequate.
27. The applicant owns other properties and land within the Barlborough Conservation Area; for example, Park Farm, no. 8 Park Street. This Grade II listed farm house and associated farm buildings are falling into dilapidation and disrepair, and if renovated could provide additional local housing, thereby bringing into use existing buildings, and also improving the street scene.
28. Though not required by legislation, no effort has been made by the landowner/developer to inform or consult with adjacent property owners relating to the proposal, or to ascertain whether other parties would be interested in maintaining the existing use of the site as allotments.
29. If houses are to be considered access should be from the cul de sac at the other side of the site with garages at the bottom and steps up to the houses like the ones already

constructed on this cul de sac.

30. The access is very tight with insufficient room to safely segregate the lane for delivery/construction vehicles and public access on the footpath. IF the footpath is closed during construction pedestrians and children would be forced to use the very busy De Rhodes roundabout where there is no traffic control when wanting to gain access to the bottom part of the village.
31. There is insufficient room for emergency vehicles such as a fire engine to enter and turn round on site. This should be considered given the potential for fire to spread to adjacent properties and the Listed Monuments.
32. With regard to the DCC Highways Department comments posted on the application website, DCC Highways Department has adopted the 6C's Design Guide, but their response makes no reference to the required width of a private driveway or to the requirements for Fire Service Vehicle access. The block plan drawing no 1.2.7.780-004A indicates the private driveway width as 2.590m with a public footpath as 1.200m wide. The footpath is actually 1.530m wide which would leave a driveway width of 2.260m adjacent to the existing footpath. The 6C's standards (section DG18 para. 3.220) relating to a private driveway, states that where the development is more than 45m from the highway (this development is approximately 65m from the highway) emergency vehicles must be catered for by constructing the drive and any turning areas so they can cater for a commercial service vehicle. The minimum width for access should be at least 3.7m (between kerbs) and Fire service vehicles should not have to reverse more than 20m (Building Regulations Approved Document Part B Fire Safety 2006). Para. 3.219 of the Design Guide also states that for long private drives / access B5906:2005 sets out a maximum carry distance of 25m for refuse collection. Where this distance is exceeded a minimum drive width of 5m is required. Based on the drawings and information provided with the application the above criteria cannot be met by the proposed scheme.
33. The additional information requested means the application is being delayed. The date for a decision has now been delayed four times, and it appears that the applicant is dragging out the application possibly hoping that all objections will be forgotten. The owners of the land have declined to renew the lease to the present lessee for use as an allotment, which will mean that the land will not be able to be maintained and will fall into disuse. There is local demand for allotment space and it is Council policy to maintain and, where possible, make additional allotment provision. As stated previously, this is the only allotment space available in Barlborough.
34. The revised plans do not address the concerns raised.
35. The biodiversity assessment submitted by the applicant clearly states that "the proposed development will result in a 72.60% loss of habitat units and a 11.39% loss of hedgerow units" it goes on to conclude that " Based on this, the scheme has not met a biodiversity net gain at the Site" Which if anything further supports the objection on the grounds of loss of bio diversity.
36. The applicant states that the land is privately owned and no longer used as garden facilities for the adjacent houses which is somewhat disingenuous given the applicant removed permission for the local householders to use the allotments as a direct precursor to submitting this development application.
37. The biodiversity does not refer to the extremely rare birds which are in the area.
38. It is stated that a hedgerow will be planted to the front of the new dwellings and the majority of boundary hedges will be retained but homeowners could cut these down in the future. The same applies to the proposed bat and bird boxes and a bird box is not

the same as natural habitats such as hedgerows and brambles which produce berries which are a vital food source for bats and birds.

39. The biodiversity report states 'Where net gain cannot be achieved on-Site, it may be necessary to allow for off-Site mitigation on other areas of land within the Client's ownership and/or financial contribution to a third party such as the Environment Bank to fund off-Site mitigation'. How does this help this area, Barlborough? The list of 22 Local Wildlife Sites (LWS) are nothing like this patch of green space. If the whole country were to build on small bits of green land and simply mitigate the loss 2 km away? This area is unique. Barlborough Park for example does not have the same habitat and nature construct as this area - so simply mitigating there would not be the same as keeping this area as it is. People don't want to have to visit a green area miles from their homes they would like to enjoy the ones in their neighbourhood.
40. This site a beautiful hidden secret place enjoyed by wildlife and members of the public, and yet the photos presented do not show this - in fact the photos have managed to make it look like a wasteland with dead grass, garden waste and derelict sheds the focal point. This is not the view in spring and it is overflowing with life and beauty.
41. The statistics the applicant has submitted relating to an aging population wanting to downsize are not relevant when 2 x 3 bed 2 storey houses are proposed.
42. The figures about unemployment are irrelevant. How many local people are likely to be employed constructing 2 houses?
43. The Sycamore Lane is a public footpath not a pedestrian access.
44. The photos of the monuments are deliberately taken from an angle to try to show that the housing will not affect them when actually they will.
45. The development will take place within a designated conservation area. The definition of conservation is safeguarding, protection and preservation of an area of land. If these two houses are built this part of an ancient village's heritage, the allotments, will be lost forever.
46. This area of land formerly called the High Ridge used to offer magnificent views of the Peak District but as a result of the huge Barlborough links development the top of Sycamore Lane is the last remaining view of the Peaks for residents. This too will be gone if the application is passed.
47. Bolsover Local Plan Evidence Space 2018 - Green Space Profile. This report sets out the green space provisions and requirements for the Bolsover Area. The report is based on the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance "Open Space, Sports and Recreation Facilities, Public Rights of Way and Open Local Green Space 2014 (NPPG).

Paragraphs 99 and 100 of the NPPF clearly state:

"99. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

100. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails"

There are no proposals to provide equivalent or better provisions for the loss of this allotment space.

Page 43, (para 6.12) States that The National Society of Allotment and Leisure Gardeners (NSALG) suggests a national standard of 20 allotments per 1,000 dwellings. The equation used in the report shows that this further equates to a requirement of 0.25ha per 1,000 population.

Page 51, (paras 7.25 and 7.26) States that one of the main benefits of green spaces is their capacity to bring people together and foster a sense of community, pride and social inclusion. Accordingly communities should be supported to take a more direct role in the promotion, care and management of green spaces. There is demand for allotments in the local area.

Page 60, Table 22 of the report shows that there is no allotment land provided in Barlborough by the local authority. Based on a current population of approximately 3,000 residents, Barlborough therefore falls short of standard guidelines for this type of green space.

48. There are a number of inaccuracies in the Heritage statement. Paragraph 2 states that the proposed development site inspection confirmed that it is a former extended private garden area, whose setting is characterised by residential development on Slayleigh View Road, Sycamore Lane, Great Common Close and Clowne Road. This is incorrect. The land has always been used as allotments and is characterised by its use as open space and is linked to the footpath and public open space of Slayleigh View Road. It incorporates the existing public footpath in and out of the site down Sycamore Lane. Paragraph 7 states, "The potential impact of development on designated heritage assets due to development within their settings was considered using design and development principles set out by Historic England and the Local Plan." The fact that the allotments were not included in the Local Plan should not detract from their importance as an asset to the local community and Barlborough in general and, their use should be maintained and the site retained as a green space. This development within the Conservation Area greatly affects the character of the area and, to say that the scale or impact of the proposed development was found not to be materially harmful to the present day character of the Conservation Area, is totally erroneous.

Other points and material comments:

1. No 5 Sycamore Lane is only a 2 storey property and not 3 storey as quoted.
2. Views – there are extensive views both in and out of the site, including the historic monuments to the Boaler family in the Garden of Sycamore Lane
3. Planning Policy SC16
 - a) The allotments are within the Conservation Area and are an important open space.
 - b) The allotment area is surrounded by existing trees, hedges, stone walls and there are significant views into and out of the area.
 - c) The scale of nearby buildings is mis-represented. The housing to the west of the site is at a low level, being set into the hillside.

How can the development enhance the site and its surroundings as the proposed houses will block all views from the site owing to their siting and height.

4. The report suggests that there is likely to have been little Roman activity in the area. However, a book recently published dispute this. The book states there is no doubt that there was a village or hamlet of some kind in the area as it was established that there was a Roman settlement in Barlborough and Roman coins have previously been found in the vicinity of Sycamore Lane. Evidence of Roman occupation has also

been unearthed in the neighbouring villages of Clowne and Elmtun.

49. The proposed housing is not for older people or specialist housing in accordance with Policy LC3.
50. The Local Plan states it is difficult to demonstrate concrete evidence for self-build sites at a local level. The 8 speculative sites owned by BDC offered for self-build do not have planning permission therefore why is this site suitable for self-build plots?
51. Changing the scheme to self-build will involve a longer construction period causing additional disruption.
52. Will self-builders build the houses detailed in the plans or will this be subject to new applications.
53. The visualisation submitted is inaccurate and does not show the view from adjacent dwellings and gardens.
54. The proposals to identify the public footpath from the driveway are inadequate to keep pedestrians safe and creates a health and safety issue.

POLICY

Local Plan for Bolsover District (“the adopted Local Plan”)

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 Sustainable Development
- SC1 Development within the Development Envelope
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC14 Contaminated and Unstable Land
- SC16 Development Within or Impacting upon Conservation Areas
- SC17 Development affecting Listed Buildings and their Settings
- LC3 Type and Mix of Housing
- ITCR3 Protection of Footpaths and Bridleways
- ITCR6 Protection of Green Space
- ITCR11 Parking Provision

National Planning Policy Framework (“the Framework”)

The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Chapter 2: Achieving sustainable development
- Paragraphs 47-48: Determining applications
- Paragraphs 55-58: Planning conditions and obligations
- Paragraphs 100-102: Protecting Public Rights of Way and Green space
- Paragraphs 174, 179, 180 and 182: Conserving and enhancing the natural environment

- Paragraphs 183-188: Ground conditions and pollution
- Paragraphs 194, 195 and 199-208: Conserving and enhancing the historic environment

Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design, Adopted 2013:

The purpose of the Successful Places guide is to promote and achieve high quality residential development within the District by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

Barlborough Conservation Area Appraisal 2018.

ASSESSMENT

It is considered that the key issues in the determination of this application are:

- the principle of the development and the loss of open space
- the impact on the character and appearance of the conservation area and the setting of listed buildings
- residential amenity
- whether the development would be provided with a safe and suitable access;
- biodiversity
- contamination

These issues are addressed in turn in the following sections of this report.

Principle of the development and the loss of open space

The site is within the development envelope in a predominantly residential area. The site is within walking distance of the school and local shops and facilities and bus stops giving access to larger towns and cities. The site is therefore considered to be in a relatively sustainable location where residential development is acceptable in principle subject to compliance with relevant Local Plan Policies.

The site has previously been an allotment but is currently leased as a private garden to a local resident. The site is not allocated allotment or open space as identified in the Local Plan and as such is not protected by Policy ITCR6 of the Local Plan for Bolsover District and as such its loss as an area of open space would not in itself be contrary to the Local Plan and the site could be fenced off at any time without the need for planning permission.

The impact on the character and appearance of the conservation area and the setting of Listed Buildings

The site lies within the Clowne Road character area of the Barlborough Conservation Area. The conservation area boundary was amended in August 2001 to specifically include this site and the garden to Sycamore House which contains the 2 GII listed stone arch memorial arches dedicated to the Boaler family.

Clowne Road is an area of former farmsteads located on lower land at the southern entrance to the village. The farms represent an unusual example of a nucleated farm group as they

were built after Enclosure had taken place, when isolated farmsteads in the open countryside were more customary. Over the years the farmsteads have been converted to residential use but despite these alterations they are considered to represent a historically interesting complex of buildings and have significance as heritage assets.

The nucleated cluster of properties around Sycamore House are different in character and layout to the farmsteads. The buildings are set back from the main road with a large open aspect and gardens to the rear enclosed by a low stone boundary wall. There is a collection of different styles of building ranging from the estate cottages with cast iron windows dating from circa 1850 to Sycamore House with the two large imposing memorial arches in the rear garden dating from 1604 and 1832. The open area of land bounded by the public footpath provides an open setting to the conservation area.

At the time of designation of the extension in 2001 the area of land which is the subject of this application was considered to be worthy of inclusion in the conservation area due to their historical association with the Sitwell Estate and the Estate Cottages. The designation report at the time concluded:-

“The allotments are in use and they provide an attractive green space at the bottom of Sycamore Lane adjacent to the start of the public footpath that heads south to the site of the former Slayley Farm which complements the surrounding area. The allotments are shown on the 1962 County land use survey maps of the area and they formed part of the settlement area at that time, the remainder of which is already within the conservation area boundary or is proposed to be included.”

The main heritage issue for consideration is whether or not the proposal would preserve or enhance the character or appearance and significance of the Barlborough Conservation Area and the setting of the adjacent listed memorials.

The current open area provides an open setting to the conservation area and provides a buffer between the contemporary development (both the new Barlborough Links estate to the south and the new dwellings in the former farmyard to the north). There are a number of glimpses through the dwellings to the historic footpath and open area to the rear.

Development on this plot of land will undoubtedly have an impact on the character and appearance of the area by:-

- Infilling of a historic open space
- Impact on views into the conservation area
- Impacts on ecology and wildlife and removal of trees
- Altering the historic path layout to accommodate a vehicular access

This open area also provides a historic setting for the listed memorials in the grounds of Sycamore House despite the existence of the mature vegetation which has been established in the garden of Sycamore House. Historically the parcels of land would have been linked, providing a wider historic setting to the Memorials. Development on this parcel of land will therefore have an impact on the setting.

A Heritage Impact Statement prepared by RPS has been submitted and this document is considered to provide a thorough and detailed assessment of the significance of the heritage

assets affected by the proposal and provides a judgement on the potential impact of the development on the significance of those heritage assets. The report concludes that the development would not cause harm to the setting of the adjacent listed buildings and was not considered to be materially harmful to the present day character of the Conservation Area.

A revised street scene plan has also been received which more accurately depicts the levels of the site.

The applicant has therefore provided sufficient detailed information in accordance with the requirements set down in the NPPF and local plan policies.

However, despite the conclusions outlined in the Heritage Impact Assessment it is still considered that the infilling of this plot with 2 detached properties, associated parking and hard landscaping will have a material impact on the character of this part of the conservation area and the wider setting of the adjacent memorials. It is considered that the views to and from this historic thoroughfare and area of open space do contribute to the overall sense of sense of place found in this part of the conservation area and these views will be affected by the development. However, the harm caused by this is considered to be less than substantial.

The National Planning Policy Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

The amended proposal is for two dwellings which are to be available purely for people on the council's custom and self-build register. It is proposed that the applicant would provide the communal private drive and utilities to each plot.

Paragraph 62 of the NPPF requires planning policies to assess housing need for different groups of people including people wishing to commission or build their own houses.

Footnote 28 sets out that under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

Policy LC3 of the Local Plan states that the council will encourage the inclusion of plots suitable for self and custom build dwellings in areas where there is demand.

The Council has 43 people on the custom and self-build register requiring plots, 24 of which registered within the last base period. The council has only 14 plots with planning permission for custom and self-build properties on the register. This shows a significant shortfall in the number of serviced custom and self-build plots available and as such the provision of 2 additional plots is considered to represent a public benefit. Any planning permission would be conditioned to ensure that plots can only be developed by people who are on this register and subject to such a condition the proposal is considered to represent a public benefit which outweighs the less than substantial harm to the conservation area and the setting of the Listed memorials in accordance with the requirements of Policies SC16, SC17 and LC3 of the

Local Plan and the guidance set out in the NPPF.

Residential amenity

The proposed dwellings are adjacent to existing dwellings and gardens but meets the requirements of the council's housing layout and design guidance in terms of distances between windows of existing and proposed dwellings and distances between windows and private gardens and windows and blank gables, subject to conditions requiring suitable boundary treatments to all boundaries.

The proposal is therefore not considered to result in a significant loss of daylight to or outlook from adjacent dwellings and is considered to result in an acceptable level of daylight to and outlook from the proposed dwellings. The proposal is also considered to result in an acceptable level of private open space for the proposed dwellings and meets the council's guidance in this respect.

The proposal is therefore not considered to have a significant adverse impact on the privacy or amenity of residents of adjacent dwellings and is considered to result in an acceptable standard of amenity for future residents of the proposed dwelling. On this basis the proposal is considered to meet the requirements of Policies SC2, SC3 and SC11 of the Local Plan for Bolsover District and the guidance set out in the Successful Places, a Guide to Sustainable Housing Layout and Design published by the council.

Whether the development would be provided with a safe and suitable access

The site is proposed to be accessed via a long driveway which is proposed to be shared with the existing public footpath. The proposal includes the whole driveway being finished in permeable paving with the footpath identified by a contrasting colour paving to the remainder of the driveway and signage to be installed for pedestrian safety. The footpath as proposed to be identified has been widened to 2m. The proposed driveway/footpath arrangement has been the subject of numerous amendments to meet the requirements of DCC Public Rights of Way in respect of footpath alignment, width and identification. The latest amendment has addressed the issues raised by the Rights of Way officer and no objections are raised to the amended proposal in this respect.

The proposal includes 2 parking spaces for each dwelling plus one additional visitor space which exceeds the requirements of the Council's parking standards. The proposal also includes a turning area capable of accommodating a small delivery vehicle. Subject to conditions relating to provision of access, parking and turning in accordance with the approved plans, provision of bin store and construction management plan being carried out in accordance with the approved details there are no objections from the Highway Authority.

The shared driveway includes a bin store approx. half way down the driveway which is approximately 26m from the access onto Sycamore Lane. The council's guidance requires bin stores to ideally be within 30m of the dwelling and the proposal achieves this. The proposal will result in the need to bins being taken to Sycamore Lane for collection by the refuse department but the addition of two bins to the existing number of bins collected from this point on bin collection day is not considered to have a significant impact on amenity or highway safety over and above the existing situation.

Whilst the long shared driveway is not ideal, in the absence of objections from the Highway

Authority and the Public Rights of Way Officer the proposal is not considered to be so detrimental to public or highway safety to justify refusal of the proposal and subject to the conditions set out above the proposal is considered to meet the requirements of Policies ITCR3 and SC3 of the Local Plan for Bolsover District in this respect.

Biodiversity

The site has been used as allotments and then a garden for some time and contains a number of trees around the site. Consequently there is potential biodiversity interest of the site. A Preliminary Ecological Survey and Biodiversity net gain report have been submitted and Derbyshire Wildlife Trust have confirmed that sufficient information has been submitted to allow the application to be determined and that subject to conditions requiring implementation of details of the biodiversity mitigation and enhancement strategy set out in the submitted details the proposal only results in a small net loss for biodiversity.

Whilst this is considered to meet the requirements of Policy SC9 of the Local Plan for Bolsover District which only requires no significant losses, this is considered to be contrary to the aims of the NPPF which requires no net loss. However, given that the site has previously been allotments and more recently been a garden, the whole site could have been cultivated or laid to lawn without the need for planning permission and this could be considered to result in a greater net loss to biodiversity than the current proposal. On this basis, a condition requiring biodiversity enhancement measures to be provided on site is considered to be adequate to meet the requirements of Policy SC9 and additional contributions for off-site provision cannot be required for the development of such a small site as there is no requirement/provision to do so within that policy.

Derbyshire Wildlife Trust have also asked for a condition requiring vegetation clearance takes place outside of nesting seasons but as this is covered by other legislation it is considered unreasonable to require this by condition but a note can be added advising that works must take place outside nesting season unless a survey is undertaken first.

Contamination

The site has previously been used as allotments and involves the removal of some made ground and hard standings. This has the potential to give rise to land contamination. Given the sensitivity of the proposed development a phased contaminated land investigation condition is considered necessary to ensure the site is free from contaminants and suitable for residential development in accordance with Policy SC14 of the Local Plan for Bolsover District.

OTHER PLANNING CONSIDERATIONS

Issues raised by residents

Most of the issues raised by local residents are covered in the above assessment.

The issue of right of access from the footpath to an adjacent dwelling has not been considered as this is a private matter between the parties concerned and the footpath cannot be closed or diverted without approval from Derbyshire County Council.

The issue of loss of parking as a result of the access being created has not been considered as these are parking spaces on the highway, they are not allocated parking spaces which are

being removed and there is no specific right to park on the highway.

The issue of noise and disturbance during construction has not been considered as this would be a temporary inconvenience and can reasonably be expected during construction in urban areas.

The issue of single storey dwellings being preferable has not been considered as the proposal meets the council's housing layout and design guidance and as such single storey dwellings cannot be required.

The issue of the land remaining as open space has not been considered as the land is not allocated open space and as such is not protected, it is not public open space it is privately owned and can be fenced off at any time without consent from the council.

The issue of loss of view for local residents has not been considered because in planning terms there is no right to a view and as such this cannot be taken into account

The issue of the time taken to determine the application and the number of amendments received has not been considered because in planning terms there is a presumption in favour of development unless material planning considerations indicate otherwise and in the National Planning Policy Framework requires Local Planning Authorities to approach decisions on proposed development in a positive way and work proactively with applicants to seek to approve applications for sustainable development where possible. Given this requirement, there have been on-going negotiations with the applicant with regard to amendments to the proposal to try to address the concerns about the impact of the proposal, as is good practice.

CONCLUSION / PLANNING BALANCE

The site is in a sustainable location within the development envelope. The proposal meets the requirement of the council's Successful Places supplementary planning document in terms of its impact on residential amenity and there are no objections to the proposal (as amended) from the Highway Authority in terms of highways safety or the safety of pedestrians using the footpath.

The proposal impacts on the character and appearance of the conservation area and the setting of listed memorials. This impact has been identified as less than substantial harm. This harm is outweighed by the public benefit of the provision of custom and self-build dwellings for which there is an identified need within the district. On this basis the proposal accords with the relevant policy requirements, subject to the inclusion of suitable conditions.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the plan numbers 127780-007E

127780-008
127780-009
127780-006
127780-006A

3. The development hereby permitted consists of solely custom or self-build dwellings as defined in the Custom Housebuilding Act 2015. Each dwelling hereby approved must meet the statutory definition of self-build and custom housebuilding as defined in the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). Before construction commences on either dwelling, a completed application form supplied by the council or covering letter confirming that the developer and occupier is registered on Bolsover District Council's Self-Build and Custom Housebuilding Register and a written statement setting out how the approved dwelling meets the statutory definition of Custom and or Self-Build must be submitted to and approved in writing by the Local Planning Authority. The dwellings must only be developed and occupied in accordance with the approved details.
4. Before the construction of either dwelling commences on site, the access, driveway, public footpath and turning area must be provided on site in accordance with the approved plans and must be maintained as such thereafter.
5. Before construction of either dwelling commences on site, details of the pedestrian safety signage to be provided at each end of the public footpath must be submitted to and approved in writing by the Local Planning Authority. The details submitted must include the size, position and content of the signs. The approved signs must be provided on site before commencement of the construction of the dwellings and must be maintained as such thereafter.
6. Before the construction of each dwelling commences on site, samples of the exterior wall and roof materials must be submitted to and approved in writing by the Local Planning Authority. Each dwelling must be constructed using the approved materials and must be maintained as such thereafter.
7. Before each dwelling is first occupied the parking spaces for that dwelling must be provided on site in accordance with the approved details and must be maintained as such thereafter.
8. Before construction of the dwellings hereby approved commences on site, a detailed scheme of biodiversity enhancement measures incorporating the recommendations in paragraphs 4.3 to 4.9.2 of the Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment Reference 201-12 dated April 2022 must be submitted to and approved in writing by the Local Planning Authority. The approved enhancement measures must be provided on site in accordance with the approved details and must be maintained as such thereafter.
9. Before the dwellings hereby approved are first occupied, full details of the new trees and native hedgerows identified on plan number 127780-007E submitted via email on 5th July 2022 must be submitted to and approved in writing by the Local Planning Authority. The approved trees and hedgerows must be planted before the dwellings

are first occupied.

10. If within a period of five years from the date of the planting of any tree or hedgerow approved by condition 9, any tree or hedge planting may die, be removed, uprooted or become seriously damaged it must 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.
11. The construction phase of the development must be carried out in accordance with the construction management plan no 127780-009 submitted via email on 10th May 2022 unless otherwise agreed in writing by the Local Planning Authority.
12. Before either dwelling hereby approved is first occupied, details of all of the boundary treatments for each of the boundaries around and within the site must be submitted to and approved in writing by the Local Planning Authority. The boundary treatments must be provided on site in accordance with the approved details before the dwelling is first occupied and must be maintained as such thereafter.
13. Before the commencement of the development hereby approved:
 - a) A Phase I contaminated land assessment (desk-study) must be undertaken and approved in writing by the local planning authority.
 - b) The contaminated land assessment must include a desk-study with details of the history of the site use including:
 - the likely presence of potentially hazardous materials and substances,
 - their likely nature, extent and scale,
 - whether or not they originated from the site,
 - a conceptual model of pollutant-receptor linkages,
 - 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, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
 - details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy.

The site investigation must be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation must be submitted to the local planning authority for approval.

14. Before the commencement of the development hereby approved, where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme 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 submitted to and approved in writing by the local planning authority. The submitted scheme must have regard to CLR 11 and other relevant current guidance. The approved scheme must include all works to be

undertaken, proposed remediation objectives and remediation criteria 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.

15. None of the dwellings hereby approved must be occupied until:
 - a) The approved remediation works required by condition 14 above have been carried out in full in compliance with the approved methodology and best practice.
 - b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works must be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority must be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material must be re-evaluated through the process described in 13b to 14 above and satisfy 14 above.
 - c) Upon completion of the remediation works required by 13 and 14 above, a validation report prepared by a competent person must be submitted to and approved in writing by the local planning authority. The validation report must include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation must be included.
16. Before construction commences on either of the dwellings hereby approved, details of existing and finished ground levels and the proposed floor levels of the dwellings must be submitted to and approved in writing by the Local Planning Authority for approval. The development must be constructed in accordance with the approved levels and must be maintained as such thereafter.
17. Before their installation on site, 1:20 details of external doors and windows must be submitted to and approved in writing by the Local Planning Authority. The windows and doors must be installed in accordance with the approved details and must be maintained as such thereafter.
18. Before ground works commence on site, details for the protection measures of all retained trees identified on the approved plans, in line with British Standard BS5837:2012 Trees in relation to Design and Construction must be submitted to and approved in writing by the Local Planning Authority. The approved protection measures must be installed on site in accordance with the approved details before ground works commence and must be maintained as such throughout construction works on site.

Statement of Decision Process

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

Equalities Statement

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e. “the Public Sector Equality Duty”).

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic

Human Rights Statement

The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this ‘balancing exercise’ in the above report, officers are satisfied that the potential for these proposals to affect any individual’s (or any group of individuals’) human rights has been addressed proportionately and in accordance with the requirements of the ECHR.
