

**PARISH** Scarcliffe Parish

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**APPLICATION** Retention of static caravan for residential purposes and installation of timber cladding

**LOCATION** Horse and Hound Farm Mansfield Road Scarcliffe S44 6SU

**APPLICANT** Miss Danielle Hobson The Willows Four Lane Ends Oakerthorpe Derbyshire DE55 7LN

**APPLICATION NO.** 23/00210/FUL **FILE NO.**

**CASE OFFICER** Mrs Karen Wake (Mon-Thur)

**DATE RECEIVED** 19th April 2023

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## SUMMARY

The application is for the siting of a three bedroom, static caravan to be occupied as a dwelling.

The recommendation is to refuse the application because the site is within the open countryside and the proposal does not meet the requirements of Local Plan Policies SS9 (Development in the Countryside,) LC7 (Agricultural, Forestry and Other Occupational Dwellings in the Countryside) and 1 (Sustainable Development).

The application has been referred to Planning Committee by Cllr J Ritchie on the basis that the application is made retrospectively, and he would like the planning considerations for this specific case (development in the open countryside / sustainable development) discussed at committee level.



## **SITE & SURROUNDINGS**

The site is set slightly lower than the road and forms part of a larger grass field which is fairly level, rising very slightly to the east. There is a high, mature hedge along the northern site boundary with field beyond. There is a mature hedge along the east side boundary which is sporadic in places with more fields beyond which rise up slightly from the site level. To the south of the site is an area of mature woodland. On the site frontage (western boundary) is a mature hedgerow with an existing access towards the southern end of the site.

To the west of the site on the opposite side of the road is a field, a dwelling and a farmhouse and associated farm buildings.

The site has new post and rail fence inside the hedge line and to each side of the access. The site contains a stable block, a storage building, a covered tractor store and a manège which is also surrounded by a post and rail fence. The manège has been completed to base course but has not had the surface laid and currently contains a static caravan.

## **BACKGROUND**

Planning permission was granted in 2021 for the change of use of the site from agricultural to equestrian use, the erection of stable block, storage barn and tractor store, construction of a manège and the closure of a vehicular access and formation of new vehicular access, all for personal use.

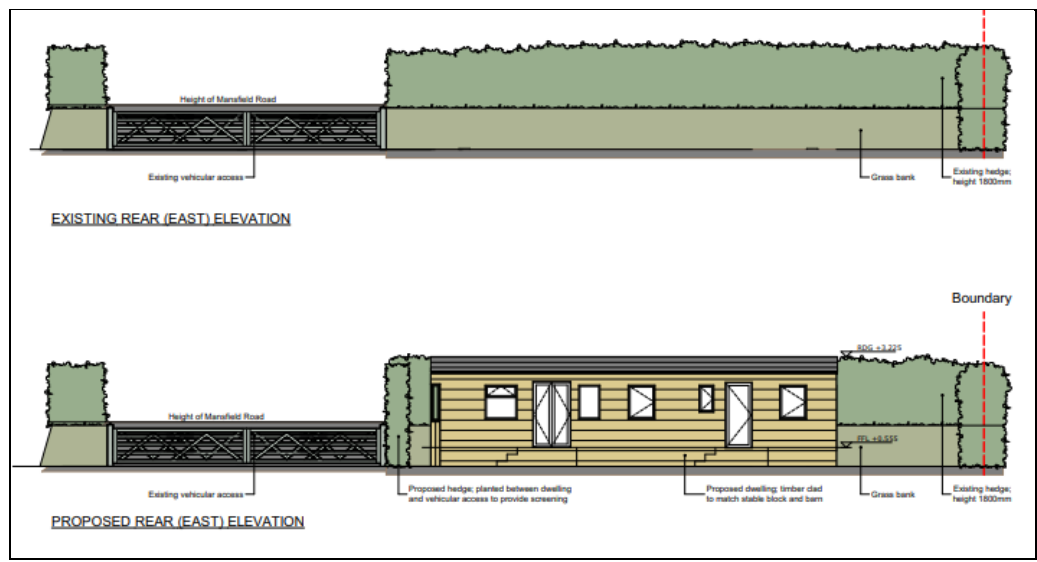
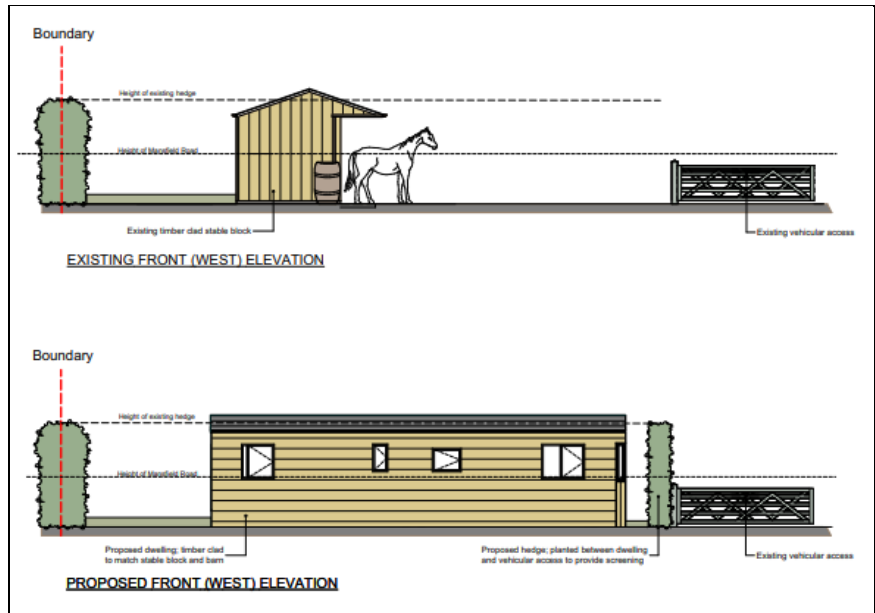
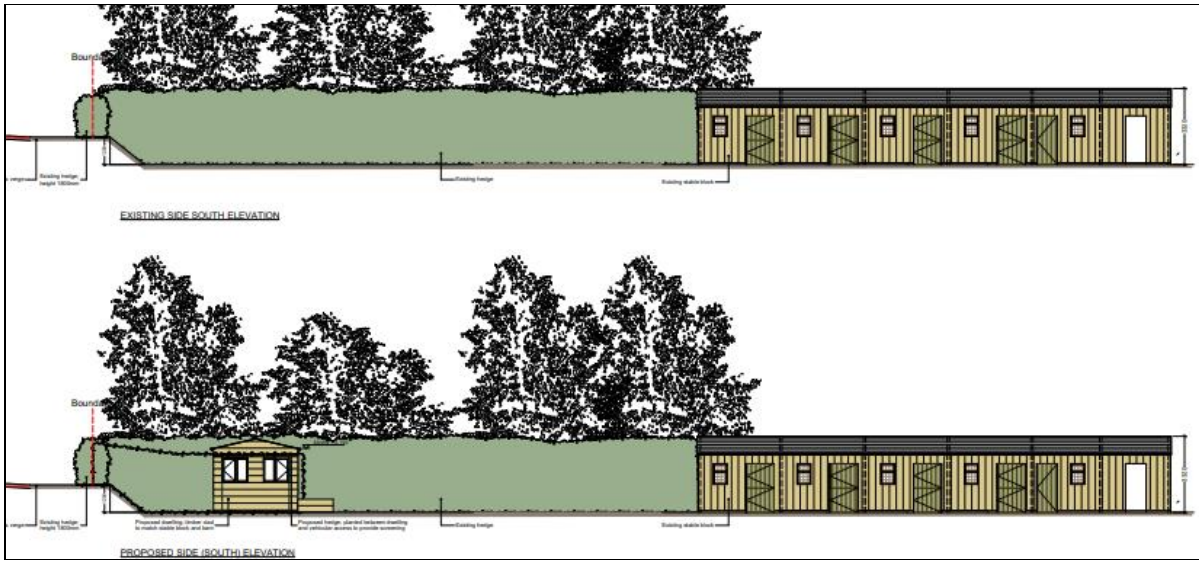
The proposal involved closing up an existing access which was severely substandard in terms of visibility and alignment. The new access was also substandard, but it was regarded an improvement to the access already in place at that time and supporting information submitted with the application described how the site would operate and indicated vehicular movements to and from the site for the proposed use. When this was compared to the vehicular movements to and from the site in relation to an agricultural use of the site there was little difference in the overall number of vehicular movements such that the proposal at that time was not considered to represent a significant intensification of the use of the site. This, together with the proposed improved access meant that, subject to conditions requiring private use, the proposal was not considered to be detrimental to highway safety.

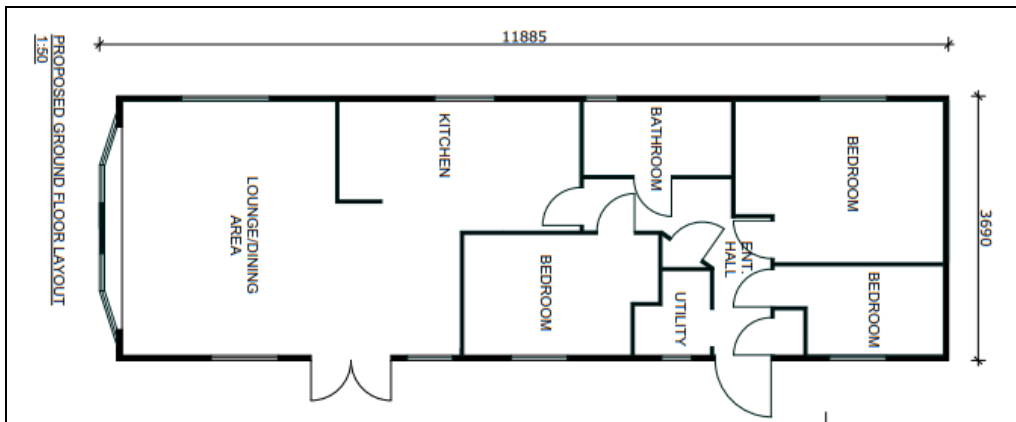
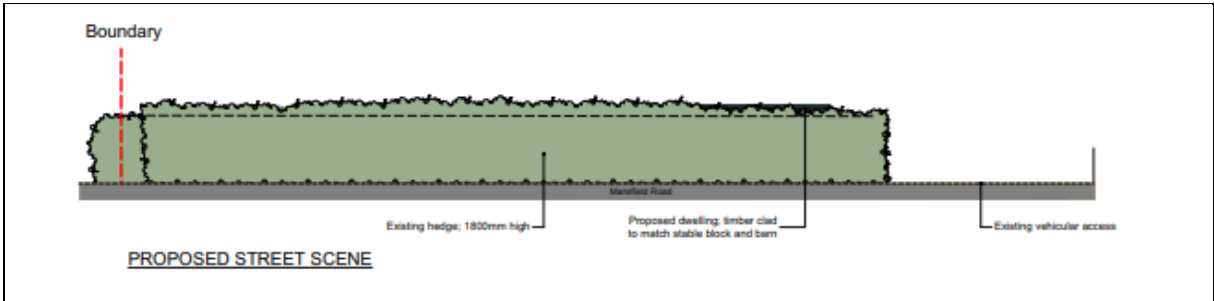
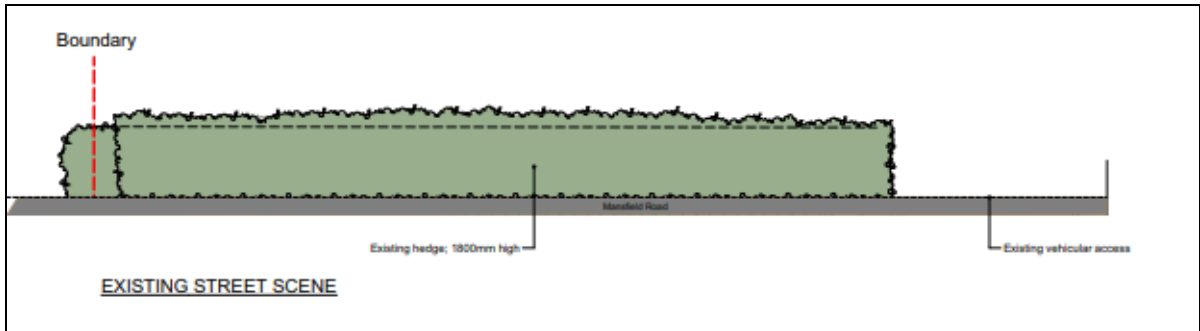
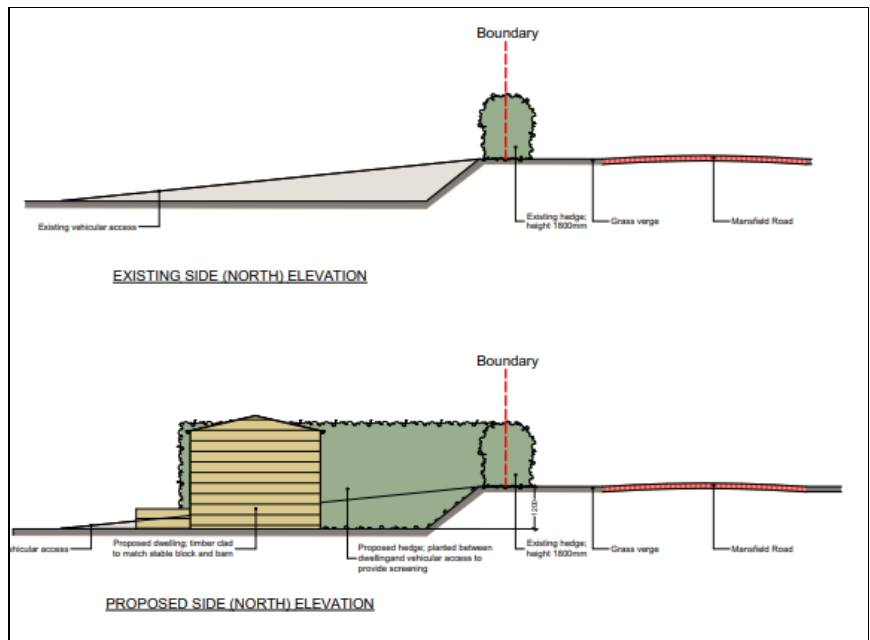
## **PROPOSAL**

The application is submitted in full for the siting of a three bedroom, static caravan to be occupied as a dwelling.

The caravan is proposed to be sited in the northwest corner of the site, adjacent to Mansfield Road.

The proposal includes cladding the sides of the caravan in timber and putting a black, tiled effect steel, pitched roof on it.





## **AMENDMENTS**

None.

## **HISTORY**

21/00064/FUL - Change of use from agricultural to equestrian, erection of stable block and storage barn, formation of a manège and closure of existing vehicular access and formation of new vehicular access, all for personal use. Granted Conditionally.

## **CONSULTATIONS**

### Derbyshire County Council Highways

Mansfield Road is subject to a speed limit of 50mph in the vicinity of the application site which equates to a visibility distance (Y) requirement of 150m; however, it is assessed that the achievable emerging visibility distance measured from a 2.4m (x) distance is some 25m to 30m in both directions measured to a point approximately 1m in to the carriageway due to the proximity of the frontage hedge boundary to the access and extensive growth of the hedge. The site access has severely restricted emerging visibility on to Mansfield Road in both directions. The proposal will increase vehicular movements through the access, particularly when taking in to account the remoteness of the site to local amenities and will therefore intensify the use of the existing severely substandard access.

Recommends the application is refused on the following grounds:

1. The proposed development, if permitted, would lead to the intensification in use of an existing substandard access to Mansfield Road, where emerging visibility is severely restricted due to the proximity of the boundary hedge thereby leading to potential danger and inconvenience to other highway users and interference with the safe and efficient movement of traffic on the adjoining highway.

The applicant may wish to undertake a speed survey to provide evidence of actual vehicle approach speeds which can then determine the required emerging visibility splays more accurately; however, considering that the existing achievable visibility distance of 25m – 30m equates to a vehicle approach speed of 20mph to 25 mph it is unlikely that this would be beneficial. To achieve an acceptable visibility distance from the access, extensive trimming or removal of the boundary hedge would be required or the setting back of the hedge.

Environmental Health Officer - No objections.

Parish Council - No comments received.

## **PUBLICITY**

Site notice and one neighbour notified. No comments received

## **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
- SS9 Development in the Countryside
- LC7 Agricultural, Forestry and Other Occupational Dwellings in the Countryside
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC11 Environmental Quality (Amenity)

### 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 78-80: Rural Housing
- Paragraphs 104-108: Promoting sustainable transport
- Paragraphs 174, 180 and 182: Conserving and enhancing the natural environment

## **ASSESSMENT**

### **Key issues**

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

- the principle of the development in the countryside
- the visual impact on the countryside
- the impact on residential amenity
- whether the development would be provided with a safe and suitable access

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

### Principle of the development in the countryside

The Local Plan for the District is the Local Plan for Bolsover District adopted March 2020. The council has more than a 5-year supply of deliverable housing which has been tested on several occasions on appeal and held to be sound. Full weight should therefore be given to the policies contained within the Local Plan.

The site is outside the development envelope for Scarcliffe within an area of open countryside where new development is restricted by the requirements of Policy SS9 of the Local Plan for Bolsover District.

This policy states that development in the countryside will only be granted where it meets one of a number of criteria. One of these criteria is if the proposal involves the re-use of previously developed land. The NPPF describes previously developed land as “land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure”. The site of the proposed dwelling is, and has not been, occupied by a permanent structure and is outside the area even approved for hard surfacing in connection with the equestrian use and the buildings/structures approved on site are not considered to have a curtilage. The proposed dwelling is therefore not considered to be on previously developed land and as such the proposal does not fall within the criteria of paragraph a) of Policy SS9. The proposal is also not considered to fall within any other criteria set out in this policy and as such the proposal is considered contrary to the requirements of Policy SS9 of the Local Plan.

Policy LC7 of the Local Plan makes allowance for new dwellings in the countryside based on the essential needs of agriculture, forestry or other rural business provided the proposal meets a number of criteria. In this instance, whilst information submitted with the application suggests the proposed dwelling would provide a functional need to help with security of the site and improve animal welfare, the use of the site is restricted by condition on the original planning permission to be for a personal use only and no trade or business to be carried out from the site. As such the use of the site is not for a rural business requiring a functional need for a dwelling and the proposal would therefore not comply with the requirements of this policy. In addition, no information has been submitted to show how site security cannot be achieved with improved security measures, such as lockable doors to enclose storage buildings etc.

The site is outside the development envelope in an area of open countryside which does not have accessible links to the nearest village, Scarcliffe. There is no footpath along Mansfield Road and as such walking along Mansfield Road which is subject to a 60mph speed limit, to the village would be considered dangerous. In addition, Scarcliffe is identified as a small rural village in the settlement hierarchy (policy SS3) as it is not considered to be a sustainable location. Scarcliffe has a small primary school and two public houses but has no other facilities in the village, no community building, no shop and no post office. It is acknowledged that the site is adjacent to bus stops but there are only two bus routes which include Scarcliffe, one runs every two hours and one every hour giving access to Sheffield, Mansfield or Shirebrook. The location of the site is therefore not considered to be sustainable for new residential development and any future occupiers would be wholly dependent on the use of a car.

Information submitted with the application suggests the proposal will reduce the applicant's carbon footprint as there will be less need for driving around. However, the information submitted with the original planning application for the use of the site for keeping horses, provided the following information:

*“It is envisaged the applicant will visit the site twice a day in the working week (morning and afternoon) and visit the site once a day at the weekend, as they will be there most of the day. The horsebox will be used once a fortnight to attend shows during the showing season, between April and September. The applicant does not intend to use the horsebox through the winter months as the proposed manège will allow them to exercise their horses on site. The*

*proposed barn allows the applicant to have the bedding and hay delivered in bulk at the beginning of the year, allowing for a reduction in vehicle movements compared to sites with no storage facilities. The feed for the horses will be purchased at the start of every month and will be taken to the site by the applicant when tending to the horses, with no additional journeys for this service. The applicant will have their own tractor and implements on-site, which will enable them to maintain the land, i.e. hedgerows, themselves requiring no other plant or machinery coming to site.”*

Based on this information the proposal will not materially reduce vehicular movements to and from the site but is considered to increase vehicular movements to and from the site and result in additional travelling from this remote location with trips to work, school, shopping etc. and as such is not considered to result in the reduction of emissions from a reduction in vehicle usage to and from the site.

On this basis the proposal would be considered to represent unsustainable development which is contrary to the requirements of Policy SS1 of the Local Plan for Bolsover District.

### The visual impact on the countryside

The static caravan on site is proposed to be positioned in the northwest corner of the site, adjacent to hedgerows. It is proposed to clad the caravan in timber with a black, profile sheet roof to match the existing stables.

The cladding of the building would mean the building is more in keeping with the existing buildings and the mature hedge offers screening from outside the site such that the caravan, once clad is considered to have minimal visual impact on the countryside. However, the creation of a domestic curtilage which would inevitably come with the use of the building as a dwelling and the associated domestic paraphernalia which would come with it would be considered to have a harmful, urbanising appearance on the rural character of the area, contrary to the requirements of Policies SS9 and SC2 of the Local Plan for Bolsover District.

### Access

As set out above, the proposal is not considered to reduce vehicular movements to and from the site and is considered to actually result in an increase in vehicular movements.

Mansfield Road is subject to a speed limit of 50mph and as such requires 2.4m x 150m visibility splays. In this instance the Highway Authority have assessed the visibility splays from the site access to be 2.4m x 25-30m in each direction, measured to a point approximately 1m into the carriageway due to the proximity of the frontage hedge boundary to the access and extensive growth of the hedge. The site access therefore has severely restricted emerging visibility on to Mansfield Road in both directions. The proposal is considered to increase vehicular movements through the access, particularly when taking in to account the remoteness of the site to local amenities and will therefore intensify the use of the existing severely substandard access. The proposed development, if permitted, would lead to the intensification in use of an existing substandard access to Mansfield Road, where emerging visibility is severely restricted due to the proximity of the boundary hedge thereby leading to potential danger and inconvenience to other highway users and interference with the safe and efficient movement of traffic on the adjoining highway, contrary to the requirements of Policy



SC3 of the Local Plan for Bolsover District.

The applicant could be asked to undertake a speed survey to provide evidence of actual vehicle approach speeds which can then determine the required emerging visibility splays more accurately; however, considering that the existing achievable visibility distance of 25m – 30m equates to a vehicle approach speed of 20mph to 25mph it is unlikely that this would be beneficial and as such it is not considered reasonable to require the applicant to go to the expense of carrying out such surveys.

To achieve an acceptable visibility distance from the access, extensive trimming or removal of the boundary hedge would be required or the setting back of the hedge. This in itself would be considered to have a harmful, urbanising impact on the character and appearance of the countryside, contrary to the requirements of Policies SS9 and SC2 of the Local Plan for Bolsover District.

#### Residential Amenity

The site could provide adequate amenity standards for the proposed occupiers and would not harm the amenity of residents of adjacent dwellings. However, this is not considered to overcome the non-compliance with the Local Plan policies set out above.

#### Other Issues raised by the applicant in support of the proposal

Some of the issues raised by the applicant are covered in the above assessment.

The issue of the applicant's personal circumstances and financial position has not been considered as this is not a material planning consideration which could be taken into account.

The applicant has stated that they are to become homeless and therefore need to live on site. This is also not a material planning consideration which could be taken into account. Even if this could be considered, there has been no evidence submitted to support this claim or to prove that other accommodation alternatives are not available.

The applicant has also expressed concern that they are being discriminated against because if they were members of the travelling community the proposal would be viewed differently. The council has a policy within the Local Plan (Policy LC5) which requires planning permission to be granted for new sites for gypsies, travellers and travelling show people provided they meet a number of criteria. One of these criteria is for the sites to be within the development envelope unless they can be shown to meet a need identified in an independent assessment. The Local Plan for Bolsover District sets out the need for Gypsy and Traveller Accommodation sites as identified within the Gypsy and Traveller Accommodation Assessment (GTAA.) If this assessment shows an identified need for sites as the council has a shortfall in the number of allocated/identified sites, then the council may have to consider sites outside the development envelope in order to meet this identified need and that would be compliant with Policy LC5. If the council has enough sites to meet this need then sites outside development envelopes would be contrary to Local Plan policy and would be refused.

When considering this application, the applicant does not have these protected characteristics and as such Policy LC5 does not apply in this instance.

## CONCLUSION

The proposed dwelling is contrary to policies SS1, SS9, LC7 and SC2 and SC3 of the Local Plan for Bolsover District. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. There are no material considerations which can be taken into account as part of the planning process which justify making a decision which is contrary to the requirements of the policies set out in the adopted Local Plan.

## RECOMMENDATION

**It is therefore recommended that the application be REFUSED for the following reasons:**

1. The site is outside the development envelope for Scarcliffe within an area of open countryside where new development is restricted by the requirements of Policy SS9 of the Local Plan for Bolsover District. This policy states that development in the countryside will only be granted where it meets one of a number of criteria. The proposal is not considered to fall within any of the criteria set out in this policy and as such the proposal is contrary to the requirements of Policy SS9 of the Local Plan.
2. Policy LC7 of the Local Plan for Bolsover District makes allowance for new dwellings in the countryside based on the essential needs of agriculture, forestry or other rural business provided the proposal meets a number of criteria. In this instance, the use of the site is restricted by condition on the original planning permission to be for a personal use only and no trade or business to be carried out from the site. As such the use of the site is not for a rural business requiring a functional need for a dwelling and the proposal would therefore not comply with the requirements of Policy LC7 of the Local Plan.
3. The site is outside the development envelope in an area of open countryside which does not have accessible links to the nearest village, Scarcliffe. There is no footpath along Mansfield Road and as such walking along Mansfield Road which is subject to a 60mph speed limit, to the village would be considered dangerous. In addition, Scarcliffe is identified as a small rural village in the settlement hierarchy as it is not considered to be a sustainable location. The site is adjacent to bus stops but there are only two bus routes which include Scarcliffe, one runs every two hours and one every hour giving access to Sheffield, Mansfield or Shirebrook. The location of the site is therefore not considered to be sustainable for new residential development and any future occupiers would be wholly dependent on the use of a car. On this basis the proposal would be considered to represent unsustainable development which is contrary to the requirements of Policy SS1 of the Local Plan for Bolsover District.
4. The proposed development would lead to the intensification in use of an existing substandard access to Mansfield Road, where emerging visibility is severely restricted due to the proximity of the boundary hedge thereby leading to potential danger and inconvenience to other highway users and interference with the safe and efficient movement of traffic on the adjoining highway, contrary to the requirements of Policy SC3 of the Local Plan for Bolsover District.

## **Statement of Decision Process**

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.