

PARISH

Clowne Parish

APPLICATION

Partial demolition of garden outbuilding and erection of five, two storey dwellings with associated infrastructure, private driveway, parking and gardens.

LOCATION

Land to The Rear Of 44 Mitchell Street Clowne

APPLICANT

Mr Robert Davidson 85 Moor Lane, Bolsover Chesterfield Derbyshire S44 6EP

APPLICATION NO.

23/00538/FUL

FILE NO. PP-12527586

CASE OFFICER

Mrs Karen Wake (Mon-Thur)

DATE RECEIVED

25th October 2023

SUMMARY

The application has been referred to Planning Committee by Cllr Bennett because of concerns about the impact the additional traffic resulting from five additional dwellings would have on an already overcrowded street.

Site Location Plan



SITE & SURROUNDINGS

The site is currently the extended garden area for the existing two storey dwelling on site. The land is surrounded on three sides (north, east and west) by other residential properties whilst to the south beyond a boundary of shrubs and trees is the Clowne Linear Park, a former

railway line which is now informal open space.

The land slopes down from the highway to the south, with a drop of approx. 2m from the existing dwelling to the rear of the site. The existing dwelling on site is a two storey property brick built with partly rendered walls. The eastern boundary is mainly built of brick wall which varies in height being approx. 3m high close to the house stepping down to approx. 1m towards the rear of the site. Part of this eastern boundary is formed by rear walls of outbuildings to adjacent properties. The majority of the western site boundary is hedges which are approx. 3m high.

The rear curtilage of 44 Mitchell Street is hard landscaped with various outbuilding with the remainder of the site being grassed.

BACKGROUND

The site has previously been granted outline planning permission for residential development. The outline applications had all matters reserved and as such no details of the residential development have been submitted or approved previously.

PROPOSAL

The application is a full application for the construction of five, two storey dwellings. The development includes one pair of three bed, semi-detached dwellings, one pair of two bed, semi-detached dwellings and one detached three bed dwelling. The proposal includes a shared access off Mitchell Street with a shared, on-site turning area and each of the dwellings proposed has two parking spaces. The proposal also includes the retention of two parking spaces for the existing dwelling at 44 Mitchell Street.



House type C Plot 1 Front view



House type C Plot 1 Rear view



House type A Plots 2 & 3 Front view



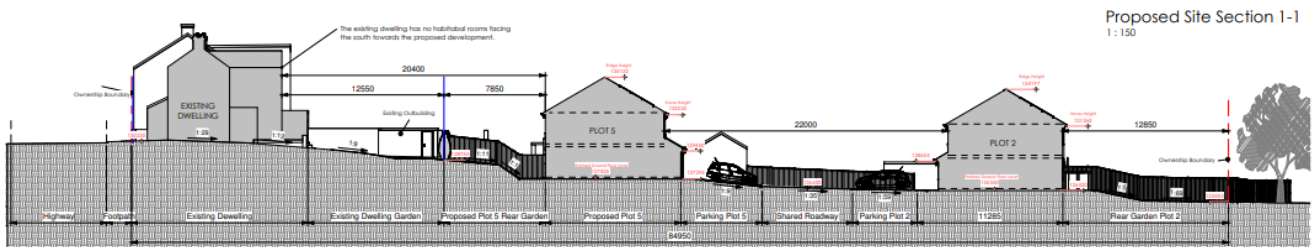
House type A Plots 2 & 3 Rear view



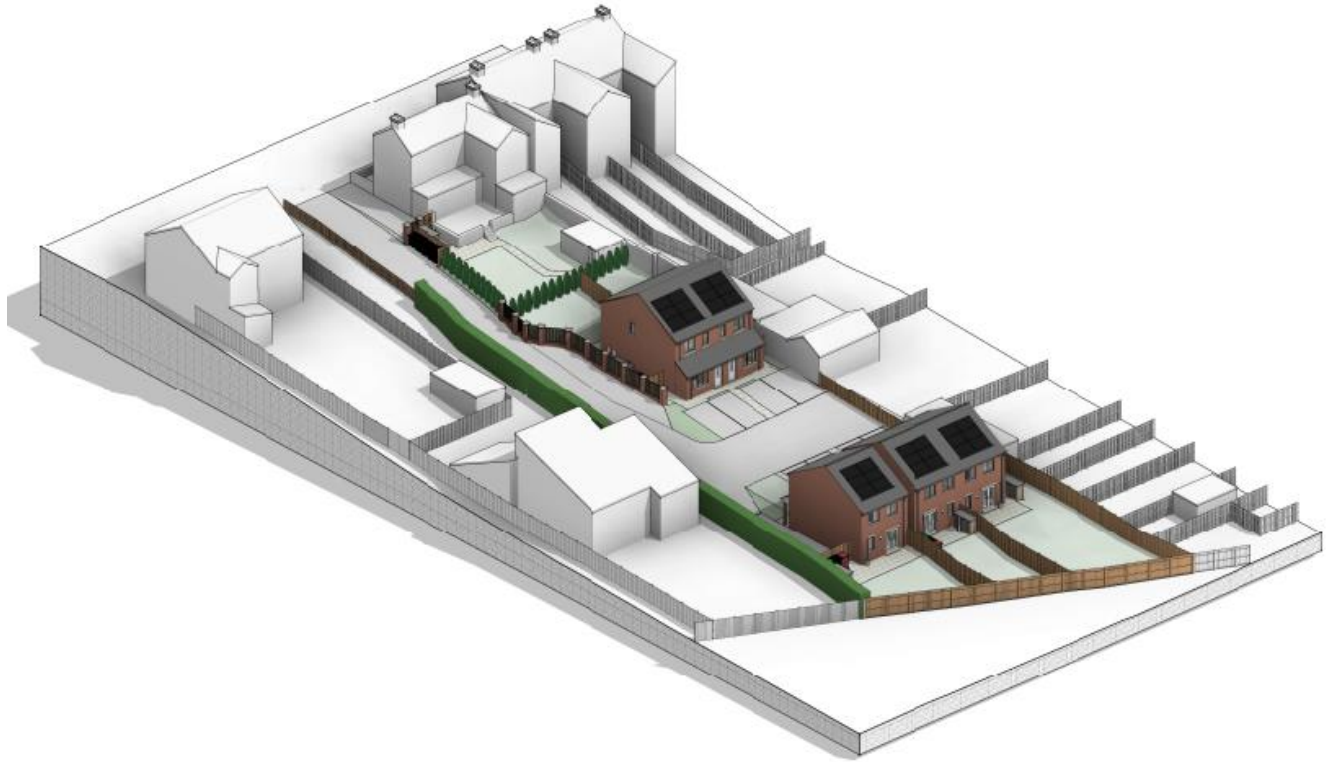
House type B Plots 4 & 5 Front view



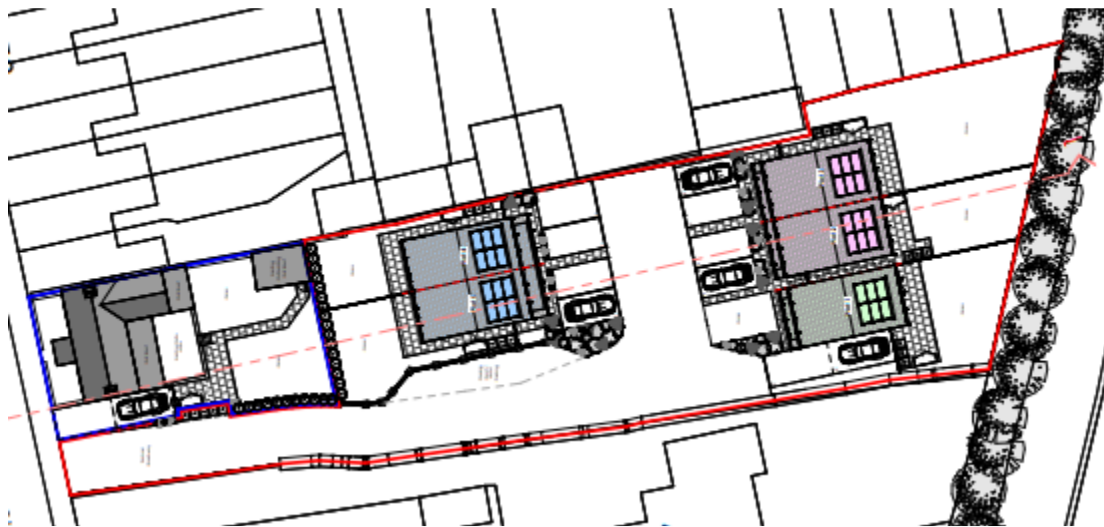
House type B Plots 4 & 5 Rear view



Proposed site section



Site layout 3D view



Proposed site layout plan

AMENDMENTS

Amended plans received which show the proposed biodiversity enhancement measures and a lighting scheme following on from the submission of the biodiversity net gain assessment.

HISTORY

10/00405/OUT	Granted Conditionally	Residential development (all matters reserved)
13/00510/OUT	Granted Conditionally	Residential development
17/00032/OUT	Granted Conditionally	Residential development (all matters reserved)

CONSULTATIONS

Derbyshire County Council (Highways)

No highway objections subject to conditions requiring access, parking and turning to be provided on site in accordance with the approved plan before the development is occupied, entire site frontage to be maintained clear of boundary treatment over 1m in height to maximise visibility, details of sheltered, secure and accessible bicycle parking to be submitted for approval and implemented and maintained on site and the construction phase of the development shall be carried out in accordance with the drawing number A(PL) 008 at all times during the construction phase.

Environmental Health Officer

No objection in principle. Recommends a condition requiring construction works and deliveries to the site to only take place between the hours of 07.30am to 6pm Monday to Friday, 7.30am to 1pm on Saturday and no work or deliveries to the site on Sundays or public holidays.

Parish Council

No comments received.

Bolsover District Council Senior Engineer

The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should 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 will need to contact Severn Trent 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.

All consultation responses are available to view in full on the Council's website.

PUBLICITY

Site notice and 23 neighbours notified. Letters of objection received from 4 neighbours which raise the following issues:

1. The proposal overlooks the gardens and habitable rooms of adjacent dwellings. The difference in levels between adjacent dwellings and the site makes this loss of privacy worse and this has not been considered in the submission.
2. The Planning Statement submitted with the application states that full compliance is provided with Successful Places Design Guidance with no significant loss of privacy or amenity for neighbouring properties. This is not accurate. The privacy to bedrooms and living space to the rear of adjacent dwellings is affected given the sight lines created by the site topography.
3. The Successful Places Design Guidance is a guide, and under section "3.11 Amenity" the document states that specific site conditions such as topography may need to be considered when increasing guidelines. The design needs to be revisited for plots 4 and 5 to further consider the privacy of adjacent dwellings, either by careful further design or omission of these plots.
4. The land to the rear of 44 Mitchell Street is an opportunity for development but 5 houses is excessive. This is because it results in a loss of some of the parking for the existing dwelling and the proposal will result in additional traffic on a street which is already congested because many houses do not have off street parking so cars park each side of the road making it almost one car width and needs to be approached with caution.
5. The additional vehicle movements created will result in increased exhaust emissions, known to be detrimental to health and an increase in noise pollution.
6. The photographs on the planning document do not fully represent the street when homes are occupied. A site visit at this time would show the difference.
7. The area has an ageing sewage infrastructure which may not cope with such an increase in demand. Sewage from 5 homes being pumped into no 44 to join an existing system will put extra strain on that.
8. The existing parking problem means that people with drives often get blocked in and additional cars and additional requirement for parking from the proposal will make this problem worse.

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

- SC11 Environmental Quality (Amenity)
- 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 7 - 10: Achieving sustainable development.
- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 92 - 103: Promoting healthy and safe communities.
- Paragraphs 119 - 125: Making effective use of land.
- Paragraphs 126 – 136: Achieving well-designed places.
- Paragraph 180: Habitats and biodiversity

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.

ASSESSMENT

Key issues

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

- The principle of the development
- The impact on the character and appearance of the area
- Residential amenity
- Whether the development would be provided with a safe and suitable access and the impact on the local road network
- Biodiversity
- Issues raised by residents.

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

Principle

The site is within the development envelope, within a predominantly residential area. The principle of residential development on the site is considered to have been established by the previous outline permissions on the site.

The site is within walking distance of the shops and facilities within the town centre and is close to bus stops giving access to larger towns and cities such as Chesterfield and Sheffield. The site is therefore considered to be in a sustainable location where residential development is considered acceptable in accordance with policy subject to compliance with the other

relevant development plan policies.

The impact on the character and appearance of the area

The street scene is made up of a variety of scale, type and style of dwelling, constructed in various materials. The principle of residential development to the rear of dwellings which front Mitchell Street has already been established by development of the adjacent sites which have two storey dwellings constructed in what was originally back gardens. The proposed development, subject to the use of appropriate materials, which can be controlled by condition, is considered to be in keeping with the street scene in terms of scale and design and is not considered to appear unduly prominent or out of character in the area in compliance with Policies SC2 and SC3 of the Local Plan for Bolsover District.

Residential Amenity

The proposed dwellings each have gardens which meet the size requirements set out in the council's Successful Places Supplementary Planning Document for two and three bed dwellings. Four of the dwellings do not have side facing windows. The two that do, only have small, side facing bathroom windows which can be required by condition to be obscurely glazed such that the proposed dwellings are not considered to result in overlooking of dwellings and gardens to the sides of the site. There are no dwellings to the rear of the site.

The dwellings which front Mitchell Street are set higher and have ground and first floor windows facing the site. The Council's Supplementary Planning Document requires 21m between directly facing principle room windows and the proposal meets this with regard to the distance between windows and the existing dwelling on site and exceeds this requirement in respect of the dwellings to each side of the site which also front Mitchell street.

The supplementary planning document also requires 10.5m between first floor windows and the boundaries to private gardens which they directly face. In this instance, plots 4 and 5 have first floor windows which are approx. 8m from the boundary to the rear garden of the existing dwelling at 44 Mitchell Street. However, the existing dwelling is within the applicant's ownership and the view of the rear garden of the existing dwelling from plot 4 is partially screened by the existing outbuilding which is adjacent to the site boundary. In addition, the garden to the existing dwelling is some 14m long such that only the very rear 2.5m of the garden is considered to be overlooked by the proposed dwellings with the remaining 11.5m of the garden being the required 10.5m from the first floor windows of the proposed dwellings. On this basis whilst the proposal falls slightly short of the requirements of the council's supplementary planning document in terms of the distance between first floor windows and the boundary to the garden of the existing dwelling, in this instance, this would not result in a material loss of privacy to the rear garden of that dwelling.

For the above reasons the proposal is considered to provide an adequate standard of amenity for future residents of the proposed dwellings and is not considered to result in a significant loss of daylight to or outlook from adjacent dwellings or result in a significant loss of privacy or amenity for residents of those dwellings. 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.

The Environmental Health Officer has asked for an hours of operation condition during

construction works to be included on any planning permission. Given that this is such a small site and construction will therefore only be for a temporary period, it is not considered to restrict hours of construction in this instance. If construction becomes a nuisance it can be controlled under the Environmental Protection Act.

Access/Highways

The site utilises the existing access onto Mitchell Street. The proposal retains two parking spaces to the side of the existing dwelling at 44 Mitchell Street. Each of the dwellings proposed have two parking spaces which meets the councils parking requirements which are set out in the Local Plan. Each of the dwellings proposed also has its own secure cycle store. The proposal includes a shared, on-site turning area which will allow vehicles to enter and leave the site in a forward direction and a passing place on the driveway to prevent the need for vehicles to reverse onto or off from the highway should two vehicles need to pass on the driveway.

The addition of five dwellings to Mitchell Street is not considered to result in a material increase in vehicular movements on highway network over and above the existing situation and given that the proposal meets the council's parking standards, it is not considered to result in a significant increase in on-street parking. The proposal will result in some large vehicles and additional parking requirements during construction, but a construction site layout plan has been submitted and can be required by condition to prevent unnecessary on-street parking and the construction period will only be temporary.

Subject to conditions requiring the construction parking/storage layout to be adhered to during construction and the provision of the access, passing place, turning area, parking spaces and cycle parking to be provided and maintained on site in accordance with the approved plans before the dwellings are first occupied, the proposal is not considered to be detrimental to highway safety and is considered to meet the requirements of Policy SC3 of the Local Plan for Bolsover District.

Biodiversity

The site is an existing garden which, with the exception of the boundary hedges is considered to be of little ecological value. A preliminary ecological survey, a nocturnal bat survey and a biodiversity enhancement net gain assessment have been submitted with the application. Based on the information provided, Derbyshire Wildlife Trust have confirmed the proposal results in a net gain for habitat and hedgerow units subject to conditions requiring the development to be carried out in accordance with the biodiversity enhancement measures submitted. It is also considered necessary to condition external lighting to be in accordance with the submitted plans to minimise the impact of light spillage on wildlife. Subject to such conditions the proposal is considered to meet the requirements of Policy SC9 of the Local Plan for Bolsover District

Derbyshire Wildlife Trust have also requested a condition that no demolition or site clearance takes place within the bird nesting season. Given that nesting birds are protected under other legislation, such a condition is not considered necessary but an advisory note can be added to any planning permission to advise the applicant of this requirement.

Issues raised by residents

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

The issue of additional noise and fumes caused by five additional dwellings on Mitchell Street has not been considered as the noise and fumes created by an additional five dwellings is not considered to materially alter the existing situation in a residential area adjacent to the town centre.

The issue of the capacity of the existing drainage system has not been considered as the applicant has confirmed he will be using soakaways for surface water drainage if percolation tests show this to be suitable and the issue of drainage from a minor site such as this is covered under Building Regulations.

Site visits are carried out for every planning application and reliance is not on photographs submitted with the application or by neighbours for an assessment of the site and its surroundings.

CONCLUSION / PLANNING BALANCE

The site is in a sustainable location where new residential development is acceptable in principle subject to compliance with the relevant policies in the development plan. The proposal is considered to be in keeping with the character of the street scene and provides a net gain for biodiversity. Whilst some impact on residential amenity and highway safety is acknowledged, this impact is not considered to be so material as to justify refusal of the proposal when the proposal meets the requirements of Policies SS1, SC2, SC3, SC9, SC11 and ITCR11 and the Council's Successful Places, supplementary planning document.

RECOMMENDATION

The 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 plan numbers:
 - 23-001 A(PL) 001 Site location plan
 - 23-001 A(PL) 003 Block plan
 - 23-001 A(PL) 005 Rev B Landscaping and Biodiversity measures
 - 23-001 A(PL) 006 Street scene context 3D
 - 23-001 A(PL) 007 Proposed Sections and street scene
 - 23-001 A(PL) 008 Proposed site compound layout
 - 23-001 A(PL) 009 Proposed site levels and gradients
 - 23-001 A(PL) 011 Proposed external lighting
 - 23-001 A(PL)-HTC Plans and elevations Plot 1
 - 23-001 A(PL)-HTA Plans and elevations Plots 2 and 3
 - 23-001 A(PL)-HTB Plans and elevations Plots 4 and 5
3. The external wall and roof materials must be Red Vandersanden Alexia Facing Brick and Marley modern dark grey roof tiles as set out in the application form unless otherwise agreed in writing by the Local Planning Authority.

4. Before the development hereby approved is first occupied, two parking spaces for the existing dwelling at 44 Mitchell Street must be provided on site in accordance with the approved plans and must be maintained available for parking thereafter.
5. Before the development hereby approved is first occupied, the access, passing place, turning area, parking spaces and cycle parking must be provided on site in accordance with the approved plans and must be maintained as such thereafter.
6. The first floor side facing windows serving the bathrooms in Plots 4 and 5 hereby approved must be obscurely glazed and must be maintained as such thereafter.
7. Before the dwellings hereby approved are first occupied, the boundary treatment details shown on the approved plan must be provided on site in accordance with the approved plan and must be maintained as such thereafter.
8. Before construction commences on site, the site compound must be provided on site in accordance with plan no. 23-001 A(PL)008 and must be maintained on site in accordance with these details throughout the period of construction.
9. Before the dwellings hereby approved are first occupied, the landscaping and biodiversity enhancement measures shown on plan no. 23-001 A(PL)005 Rev B must be provided on site in accordance with the approved plans and must be maintained as such thereafter.
10. Before the dwellings hereby approved are first occupied, the external lighting scheme shown on plan no. 23-001 A(PL)0011 must be provided on site in accordance with the approved plans and must be maintained as such thereafter.

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.