

PARISH Old Bolsover Parish

APPLICATION Conversion of stable block to amenity building
LOCATION The Stables Featherbed Lane Bolsover Chesterfield
APPLICANT Mr D McAlister The Stables Featherbed Lane Bolsover Derbyshire S44 6JY
APPLICATION NO. 23/00526/FUL **FILE NO.** PP-12534135
CASE OFFICER Mrs Karen Wake (Mon-Thur)
DATE RECEIVED 16th October 2023

SUMMARY

This application has been referred to Planning Committee by Cllr Hales because the application is for an ancillary room for stables, there are no stables on the site and because other conditions of previous applications have not been met i.e. replacement hedgerows. There are also concerns that the gateway to the stables is not in keeping with the countryside.

In summary, the application is recommended for approval. The application is for an amenity block to serve the existing traveller site. The proposal is outside the development envelope within an area of open countryside. The proposed use is not compliant with Policy SS9 (Development in the Countryside) but provides ancillary facilities to support the approved use as a traveller site. Such facilities are identified as essential in the Designing Gypsy and Traveller Sites Good Practice Guide and as such are considered to be in compliance with Policy LC5 (Applications for Gypsies, Travellers and Travelling Show People.)

Site Location Plan



SITE & SURROUNDINGS

The site is a small area of land (0.15 ha) which forms part of a larger grassed field. The site has been partially hard surfaced and a single storey amenity block has been constructed on site. On the southeast boundary of the site is a hedge approximately 3m high with an access gate and planters at the site entrance. Beyond that hedge is the access lane with fields beyond that. On the southwest boundary there is a hedge approximately 2m in height and mature trees with a bungalow and garden beyond. The remainder of the field, of which the site forms part, has mature hedges and trees around the boundaries with fields beyond.

BACKGROUND

A stable block has previously been granted planning permission, together with an extension to the stable block. The construction of the stable block was commenced but not completed. Instead, an amenity block was constructed without planning permission.

A traveller site for three pitches each of which may contain a mobile home, one touring caravan and two parking spaces has also been approved. Two of these pitches are immediately to the southeast of this site and one of those pitches is included in the current application as an amendment is sought to this third pitch. An area of hard standing has been laid on site which is bigger than approved and which now forms part of a separate planning application for the creation of four additional pitches and an amendment to the layout of one of the pitches already approved.

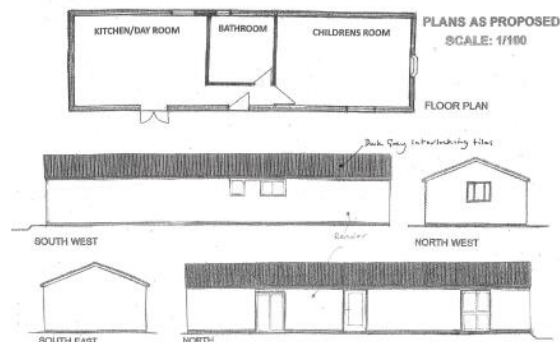
The applicant has moved a mobile home and a touring caravan onto the site and is currently living there but the pitches have not yet been laid out in accordance with the approved plan. The access to the site has been re-surfaced and utilities installed along the access lane.

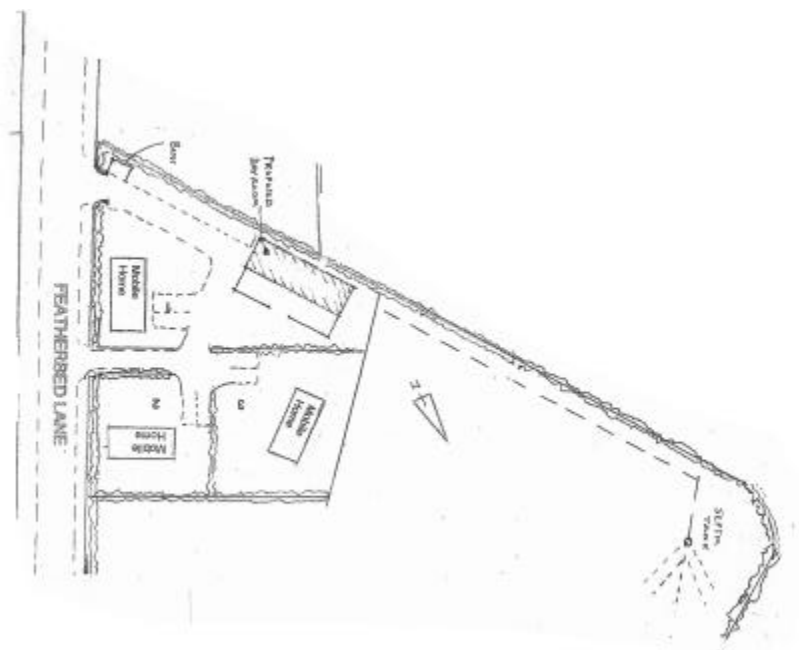
Access gates, gate pillars and a wall have been constructed at the site entrance without planning permission. These do not form part of the current application.

PROPOSAL

The application is for the retention of the amenity block which has been constructed on site. The building is single storey and is finished in render with a tiled roof and upvc windows and doors. The building contains a dayroom with kitchen and dining area, a bathroom and a children's room.

The application does not involve the conversion of a stable block as described in the application and should be considered as a new building, albeit on the footprint of the stable block previously approved and utilising the walls of the stable block which had commenced construction.





AMENDMENTS

None.

HISTORY

13/00276/FUL	Granted Conditionally	Erection of stables and hard standing
15/00052/FUL	Granted Conditionally	Erection of stable and tack room building including site entrance details, fence details, parking and turning area details, removal of hardcore and change of use to keeping of horses (application site area as clarified in e-mail dated 27th January 2015)
16/00472/FUL	Refused, allowed on appeal	Extension to stable building to provide ancillary facilities
22/00425/FUL	Granted Conditionally	Traveller site with 3 pitches

CONSULTATIONS

Parish Council:

Object for the following reason: The proposal will increase traffic on a public right of way causing a safety issue for pedestrians and damaging the surface. There are potential drainage problems and the request for additional information made by the Environmental Health Officer is supported. The number of pitches exceeds the amount required by Policy LC5 of the Local Plan. The site is greenfield and the addition of further pitches will be contrary to Policy SS9 of the Local Plan.

Coal Authority:

No comments received.

Derbyshire Gypsy Liaison Group:

No comments received.

Environmental Health Officer:

Further details are requested in regards the capacity of the existing septic tank and its ability to manage the extra loading placed upon in. This should include full details of the original design, and current versus proposed flow rates.

Derbyshire County Council Right of Way:

Bolsover Public Footpath No. 44 runs along Featherbed Lane, the access to the proposed development site, as shown on the attached plan. No objections as it is expected that the proposal will not increase traffic (which could impact the surface and safety of path users) and it appears that the route will be ultimately unaffected by the proposed works. The applicant should be advised that the footpath must remain open, unobstructed and on its legal alignment, there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section, any increase in passes of vehicles crossing the path would inevitably damage the path surface. Were this the case, any significant damage to the path surface caused by vehicles must be repaired by the applicant to the satisfaction of DCC, consideration should be given to the safety of members of the public using the path during and after the works. A temporary closure of paths will be permitted on application to DCC where the path remains unaffected on completion of the development, private rights must not derogate the public's right to use the footpath, there should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section.

Derbyshire County Council Highways:

It is not expected that the proposed building will generate any vehicular traffic over and above that generated by occupiers of the mobile homes and with the building replacing the stables, traffic associated with the stables will be removed. On those grounds there are no highway authority objections to the application. It is recommended that the building remains ancillary to the mobile homes located on the site and that this is conditioned accordingly.

Derbyshire Wildlife Trust:

Although no habitats of importance or protected species appear to be affected, it is recommended that a condition to require biodiversity enhancement measures is included on any permission to ensure a biodiversity net gain is achieved. Biodiversity enhancement measures should include 1No. bat box on a retained mature tree on site (favouring southern elevation,) 1No. owl box located on site on a mature tree along the western edge of the site, 1No. universal bird box on a retained tree or the building at eaves level (avoiding southern elevations) Evidence that these measures have been implemented should be submitted to the Local Planning Authority.

Planning Policy:

The development would be contrary to policy SS9 (Development in the Countryside) however, given that the application site forms part of a residential traveller site and that amenity blocks

are included within the design guidelines for Gypsy and Traveller sites as detailed in National Guidance and so can be considered part of establishing an acceptable living environment for its residents, it is considered that policy LC5 (Applications for Gypsies, Travellers and Travelling Showpeople) provides justification for looking at a countryside location for this ancillary amenity block. In view of the retrospective nature of this application, it is considered necessary to ensure thorough carefully worded conditions that the amenity block is used and retained for that use and not subsequently used for a different planning use that would not be acceptable in this countryside location.

PUBLICITY

Site notice and 13 neighbours 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:

- SS9 Development in the Countryside
- LC5 Applications for Gypsies, Travellers and Travelling Showpeople
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC13 Water Quality
- SC14 Contaminated and Unstable Land

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 55-56: Planning conditions
- Paragraphs 61-63: Delivering a Sufficient Supply of Homes
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural environment.
- Paragraphs 189 - 194: Ground conditions and pollution.

Other

Planning Policy for Traveller Sites updated 19th December 2023
Gypsy and Traveller Accommodation Assessment 2015
Designing Gypsy and Traveller Sites Good Practice Guide

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 of the countryside and the local area
- The impact on residential amenity
- Whether the development would be provided with a safe and suitable access
- Biodiversity
- Land stability
- Drainage
- Issues raised by residents.

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

ASSESSMENT

The principle of the development

The site is outside the development envelope in an area allocated as open countryside in the Local Plan for Bolsover District.

Policy SS9: Development in the Countryside is the adopted Local Plan's strategic policy that seeks to restrict urban forms of development in the countryside where these would not be appropriate or sustainable and not in accordance with the Local Plan's Spatial Strategy.

Policy SS9 states that development proposals in the countryside outside development envelopes will only be granted planning permission where it can be demonstrated that they fall within a number of stated categories, such as the re-use of previously developed land or the re-use of redundant buildings that make a positive contribution to the local area.

The stated categories do not include the creation of new sites or pitches and ancillary structures such as amenity buildings for Gypsies, Travellers and Travelling Showpeople and so the proposal will be contrary to the Local Plan unless other policies provide grounds for approval. In this case, the application site forms part of a residential traveller site which already has planning permission. Amenity blocks are included within the design guidelines for Gypsy and Traveller sites as detailed in the National Guidance, Designing Gypsy and Traveller Sites Good Practice Guide. In light of this National Guidance, it is considered that amenity blocks form part of establishing an acceptable living environment for its residents as required by criterion b) of policy LC5: Applications for Gypsies, Travellers and Travelling Showpeople.

It is considered that the development would be contrary to policy SS9 (Development in the Countryside.) However, given that the application site forms part of a residential traveller site and that ancillary amenity blocks are considered part of establishing an acceptable living environment for its residents, it is considered that policy LC5 provides justification for its countryside location. The proposal is therefore considered to be acceptable in principle, in accordance with this policy, provided that the other more site specific and local amenity considerations are met.

It is however considered necessary to condition the building only be used as an amenity block in connection with the use of the traveller site to ensure the building is not subsequently used for a different planning use that would not be acceptable in this countryside location.

The impact on the character of the countryside and the local area

The site is within an area of open countryside but is adjacent to residential development and existing equestrian developments in the form of stables and barns along Featherbed Lane. The amenity block is considered to be more visually intrusive than the previously approved stables as a result of the materials used. The light coloured render stands out clearly against existing vegetation whereas a timber clad stable block would appear much more recessive. However, the site is adjacent to existing dwellings and outbuildings and, once the previously approved travellers pitches are in place, it will also be seen alongside mobile homes and touring caravans. In addition there is partial screening from the boundary hedges. On this basis, the building is not considered to be so harmful to the rural landscape in this location as to justify refusal of the proposal.

The proposal utilises the existing access. The gates and wall/gate posts at this access do not benefit from planning permission and do not form part of this planning application. However, the access itself has been in place for many years and serves as a field access.

Residential Amenity

The site is set away from adjacent dwellings with partial screening from the hedgerows around the site. The proposed amenity block is to serve the previously approved traveller site and will help provide an adequate standard of amenity for future occupiers of the site in accordance with the Designing Gypsy and Traveller Sites Good Practice Guide, without causing harm to the privacy and amenity of adjacent residents. The proposal is considered to be a use which is compatible with the existing residential uses adjacent to the site. On this basis, the proposal is considered to meet the requirements of criteria b) and g) of Policy LC5 as well as Policies SC3 and SC11 in terms of its impact on the amenity of existing and future occupiers.

Access/Highways

The site utilises an existing access to the field which is served off Featherbed Lane. Featherbed Lane which is an un-adopted road/track which also makes up part of a public right of way (Footpath 44 Bolsover). Featherbed Lane is served by an existing vehicular access off Shuttlewood Road. The proposal is to enhance the facilities to serve the traveller site rather than create a new or additional use on site provided it remains ancillary to the use of the site for travellers pitches. This can be required by condition and subject to such a condition the proposal is not considered to result in an increase in vehicular movements to and from the site over and above the existing situation. The proposal is therefore not considered to be detrimental to highway or pedestrian safety and is considered to meet the requirements of Policy SC3 of the Local plan in this respect.

Biodiversity

Derbyshire Wildlife Trust have confirmed no habitats or protected species are affected by the proposal but have suggested a condition requiring biodiversity enhancements to ensure a biodiversity net gain is achieved. However, given that achieving a biodiversity net gain on non-major site is not yet mandatory and Policy SC9 of the Local Plan only requires development to provide no net loss to biodiversity, such a condition is considered unreasonable in this instance.

Land Stability (Mining Legacy)

Part of the site falls within the defined Development High Risk Area. The Coal Authority records indicate that within that part of the application site and surrounding area there are coal mining features and hazards, which should be considered as part of development proposals. The Coal Authority's general approach where development is proposed within the Development High Risk Area is to require the submission of a Coal Mining Risk Assessment to support the planning application.

However, in this case, the specific part of the site where the building is falls outside the defined Development High Risk Area. On this basis, an advisory note advising the applicant that the site lies within a coal mining area which may contain unrecorded coal mining related hazards and if any coal mining feature is encountered during development it should be reported immediately to the Coal Authority is considered sufficient. Subject to such a note the proposal is not considered to result in issues for stability on or adjacent to the site and is considered to meet the requirements of Policy SC14 of the Local Plan for Bolsover District.

Drainage

The site is within Flood Zone 1, which has a low probability of flooding. The application forms states that the surface water would be disposed of via a soakaway and foul via a septic tank. No other details have been provided. The Environmental Health Officer has requested further detail be submitted in regards the septic tank and its ability to manage the extra loading placed upon in and these details should include full details of the original design, and current versus proposed flow rates.

This information has been requested but has not yet been provided. However, given there is no objection to the proposal in principle from the Environmental Health Officer, these details can be required by condition to ensure the septic tank proposed is suitable for the disposal of foul waste from the amenity block. Subject to such a condition, the proposal is considered to meet the requirements of Policy SC13 of the Local Plan for Bolsover District.

CONCLUSION / PLANNING BALANCE

It is considered that the development would be contrary to policy SS9: Development in the Countryside. However, the impact on the rural character of the area is not considered to be so harmful as to justify refusal of the proposal and given that the application site forms part of a residential traveller site and amenity blocks are included within the national design guidelines for Gypsy and Traveller sites, the amenity block is considered part of establishing an acceptable living environment for its residents, it is considered that policy LC5 of the Local Plan provides justification for the location for this ancillary amenity block to serve the approved traveller site.

RECOMMENDATION

The current application be APPROVED subject the following conditions:

1. The amenity block hereby permitted must not be occupied at any time other than for purposes of an amenity block, ancillary to the use of the site as a traveller site (travellers as defined as defined in "Planning Policy for Traveller Sites (updated 19th December 2023).)
2. Within 56 days of the date of this permission, full details of the septic tank and

soakaway, together with the results of percolation tests which substantiate the soakaway design, must be submitted to the Local Planning Authority and approved in writing. The septic tank and soakaway must be installed as approved and must be maintained in accordance with the approved details. Final effluent from the septic tank must not connect directly to any watercourse or land drainage system and no part of the soakaway shall be sited within 10m of any ditch or watercourse.

Advisory notes

1. Public Right of Way, Bolsover Footpath No.44, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

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.

However, if these protected characteristics were not taken into account and sufficient sites provided within the district to meet an identified need in accordance with Policy LC5 of the Local Plan for Bolsover District then it may be considered that such regard had not been exercised.

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.