

PARISH Ault Hucknall Parish

APPLICATION Change of Use from Paddock to Garden Area (inclusive of boundary gate, outbuildings & planting) & erection of double garage
LOCATION The Old Dairy Batley Lane Pleasley Mansfield
APPLICANT Mr Andrew Clarke, The Old Dairy Batley Lane Pleasley NG19 7QL
APPLICATION NO. 24/00183/FUL **FILE NO.** PP-12912373
CASE OFFICER Mr Mark Penford
DATE RECEIVED 17th April 2024

SUMMARY

This is a full planning application seeking planning permission for the material change of use of land designated as countryside to be incorporated as domestic garden curtilage to The Old Dairy, Batley Lane, Pleasley. The land is already in use as domestic curtilage and includes two hard surfaced areas with associated outbuildings and landscaping used for outdoor seating. Consent is sought retrospectively for the retention of boundary treatment and gates. The application is also proposing a single storey double garage outside of the garden curtilage to the rear of The Old Dairy. The garage is the only part of the development for which retrospective consent is not sought.



Front elevation of The Old Dairy



Rear elevation of The Old Dairy

The primary planning considerations are the principle of development, taking into account whether the proposal represents appropriate development within the countryside, impacts on heritage assets, design and character, residential amenity, biodiversity, archaeology and highway safety.

CALL-IN REQUEST

The application is referred to Planning Committee for determination due to a call-in request from Cllr Ritchie on the following grounds:

If you are minded to recommend refusal, I would ask the application to come to Planning Committee. The application is in my ward, and I have met Mr Clarke. It was my suggestion that Mr Clarke put in a retrospective planning application including the garage and find a good architect and he has in Steve Iberle, who used to work here when I did.

Cllr Ritchie considers the development to be an improvement to the character and appearance of the site and the open countryside.

Site Location Plan



SITE & SURROUNDINGS

The Old Dairy is a stone barn residential conversion. The barn conversion is located within an open relatively isolated rural landscape within designated countryside. In addition to The Old Dairy is a separate two storey barn conversion and the original farmhouse to the south. The vehicular access is via Batley Lane, which is a single width lane bordered by hedgerows. The barn conversion is set back from the highway with a driveway which leads around the property frontage to the rear of the building via its side gable. The dwelling also benefits from a soft landscaped garden area forward of the principal elevation. To the rear of the site is the approved garden curtilage and a paddock. To the rear area two historic areas which once accommodation agricultural buildings. These areas are now being used by the applicant for outdoor seating and includes a garden pergola, seating, and planting areas. The paddock is proposed to be used as garden curtilage. Post and rail fencing has been erected to the perimeter of the paddock.



The paddock proposed for change of use to domestic garden.



The paddock and area of hard surfacing and outdoor seating to the north, including an erected pergola.



The area of outdoor seating to the south, including hard surfacing, shed and paraphernalia.

BACKGROUND

Planning Permission was granted for the barn conversion under office reference 13/00310/FUL on 16/09/2013. This included the conversion of two barns to form two separate

dwellinghouses. These were the conversion of the 'L' shaped mainly stone range of barns to one four-bed dwelling, and the conversion of the brick cart shed to a two-bed dwelling without the need for any extensions or major reconstruction work.

The case officer's report explains that the barns subject to the application were the barns/outbuildings to Batley Farmhouse, in a situation of open countryside between Pleasley and Rowthorne. The layout submitted with the application clearly showed the garden and parking for the dwelling, deliberately excluding a paddock area to the rear from the garden curtilages. This was in the interests of preserving the heritage interests of the site and countryside character.



The approved site layout drawing no 011 Rev C defining the approved garden curtilages of each dwelling in light green and excluding the paddock and farm buildings from garden in dark green to the north-east.

PROPOSAL

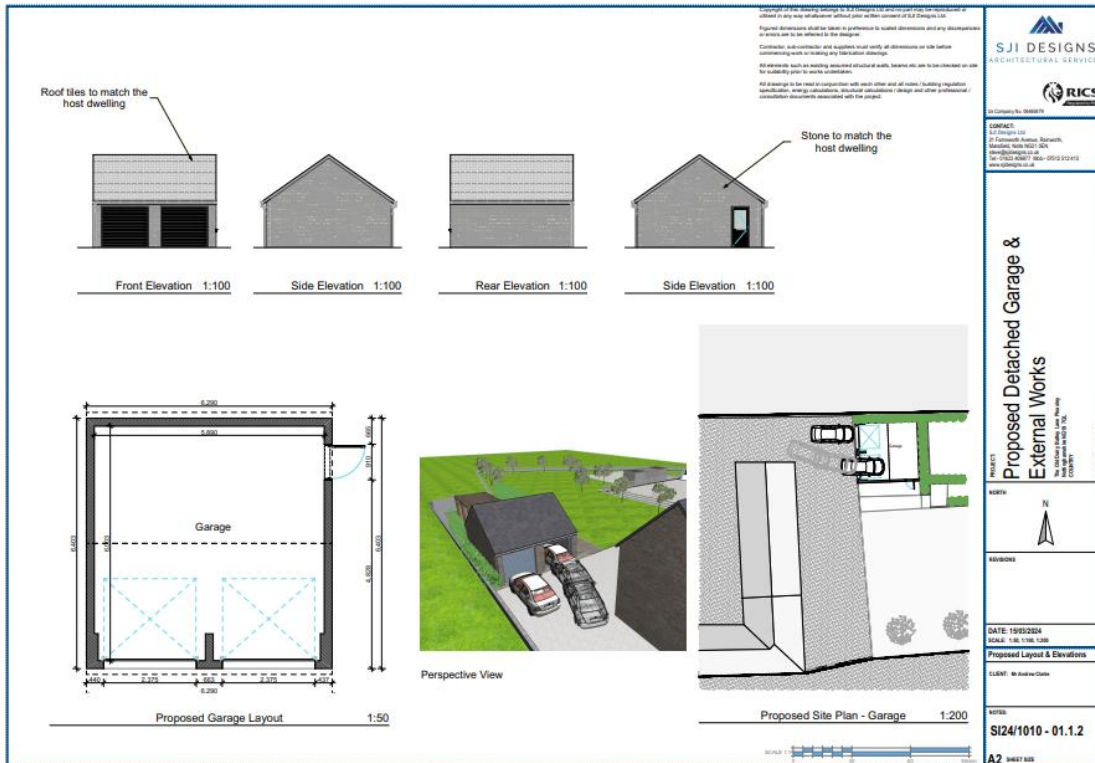
This application relates to the L shaped stone range barn to the north of the site 'The Old

Dairy' marked as Unit 1 above and seeks a material change of use of the land marked as paddock in dark green (in the north-eastern corner) to extend the approved garden curtilage (light green) of the dwelling out into open countryside. The site area subject to the change of use (in dark green on drawing 011 Rev C) is approximately 1375 square metres. The application advises that the site area has been used as a private garden by the applicant for several years (the planning agent advising 7 years) and the applicant seeks to formalise this use through a retrospective planning application.

The application seeks to regularise areas of planting, boundary fencing, gates, and a pergola structure. The double garage is proposed to the rear of the barn conversion, forward of the outdoor seating area and pergola.



The proposed site layout identifying the two seating areas which once accommodated agricultural buildings and the paddock in between them.



The proposed double garage (not constructed), situated outside the approved garden curtilage to the rear of The Old Dairy.

Supporting Documents

Planning Statement prepared by SJI Designs Architectural Services

AMENDMENTS

No formal amendments have been received.

Summary of Submissions

For clarification this recommendation is based on the following plans:

- Historic Images drawing S124/1010-01.1.3 dated 15/03/2024.
- Existing Layout drawing S124/1010-01.1.1 dated 20/03/2024.
- Proposed Garage Elevations and Floor Plan drawing S124/1010-01.1.2 dated 15/03/2024.
- Location Plan, Layout Plan, Gates and Boundary Details drawing S124/1010-01.1.1 dated 19/04/2024.

PLANNING HISTORY

13/00310/FUL Granted

Conversion of existing agricultural buildings to form two new dwellings (as amended by the revised layout plan 011 Rev C showing the derelict dutch barn demolished, the revised repairs schedule and drawing 015 Rev A showing extent of rebuilding of the stonework, and Drawing 012 Rev C showing the proposed roof lights located on the rear east elevation of the barn roof)

CONSULTATIONS

Ault Hucknall Parish Council

Response not received.

Bolsover District Council – Heritage & Conservation Manager

When considering the original application the barns were regarded as non-designated heritage assets. In order to protect the wider landscape setting of the assets the domestic curtilage was tightly drawn on the original permission and permitted development rights were removed by condition to ensure control over future changes to both the farm buildings and structures in the garden. When dealing with applications for barn conversions we are consistent in ensuring that the domestic curtilage is tightly drawn to avoid encroachment into the countryside / landscape setting. In light of the above, I am unable to support this application as it is considered that the extension of the domestic curtilage into the paddock area and the construction of a domestic garage is an encroachment into the countryside leading to domestication of the wider landscape setting contrary to policies contained in the Local Plan and NPPF.

Derbyshire County Council – Archaeologist

The fields to the north of 'The Old Dairy' have entries on Derbyshire Historic Environment Record for artefact scatters of prehistoric, Roman and medieval date. The scatters are not especially dense – in Field KY4 immediately north of the farm (it appears that field boundaries have been removed since the material was collected around 1985) comprising a few flints, 2 sherds of Romano-British pottery and 10 sherds of medieval 'Chesterfield ware' – and are described as being associated with a NW-SE 'ridge' within the field.

This ridge is not especially apparent on the ground today but would appear likely to describe the central part of the field rather than its eastern or western ends. The artefact scatter may evidence an archaeological site of any or all of the above dates, though there is also potential for low-density activity (particularly the Roman material) to derive from manuring practices of the time. Given the low number of artefacts and their focus in the centre of the field (i.e. not immediately adjacent to the current proposal site) it is not imagined that the proposed change of use would have any meaningful archaeological impact.

Derbyshire County Council – Highway Authority

It is considered that the application will have no detrimental highway impact and on that basis there are no highway authority objections to the application.

Severn Trent Water Ltd

Response not received.

The National Trust

Response not received.

PUBLICITY

Site Notice posted 14.05.2024. Comments required by 04.06.2024.

Neighbour letters to Batley House and Owl Barn posted 13.05.2024. Comments required by 03.06.2024.

REPRESENTATION

One representation has been received confirming no specific objections to the application for the erection of a double garage. However, concerns are raised that granting approval for this aspect or any of the other items included in the application cannot be used now or in the future as a stepping stone to circumvent in any way, any restrictions that exist to a planning application or change of use that exist today.

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:

- Policy SS1 – Sustainable Development
- Policy SS3 – Spatial Strategy and Distribution of Development
- Policy SS9 – Development within the Countryside
- Policy SC2 – Sustainable Design and Construction
- Policy SC3 – High Quality Development
- Policy SC5 – Changes of Use and Conversions in the Countryside
- Policy SC8 – Landscape Character
- Policy SC9 – Biodiversity and Geodiversity
- Policy SC10 – Trees, Woodland and Hedgerows
- Policy SC11 – Environmental Quality
- Policy SC18 – Archaeology
- Policy SC21 – Non-Designated Heritage Assets.
- 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 85 - 87: Building a strong, competitive economy.
- Paragraphs 96 - 107: Promoting healthy and safe communities.
- Paragraphs 108 - 117: Promoting sustainable transport.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraphs 180, 186 and 188: Conserving and enhancing the natural 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.

Local Parking Standards:

This document relates to Policy ITCR11 of the Local Plan by advising how the parking standards contained in appendix 8.2 of the local plan should be designed and implemented with development proposals. This SPD does not revise the standards contained in the Local Plan but does provide suggested new standards for parking matters not set out in the Local

Plan, such as cycle parking. The design supersedes the parking design section included within the existing Successful Places SPD (2013).

Biodiversity Net Gain Design Note:

In light of the requirement for mandatory 10% biodiversity net gain, the Council has prepared a planning advice note to provide advice on the background to the introduction of mandatory 10% Biodiversity Net Gain, how this statutory provision relates to policy SC9: Biodiversity and Geodiversity in the Local Plan for Bolsover District, and how we will expect those preparing applications to approach this new legal requirement.

Historic Environment:

The Historic Environment Supplementary Planning Document was adopted in March 2006 to provide further clarity and interpretation for policies in the Bolsover District Local Plan (of the time) in relation to listed buildings, conservation areas, conversion of historic agricultural buildings and archaeology.

ASSESSMENT

Key issues

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

- The Principle of Development
- Impacts on the Openness of the Countryside
- Heritage Impacts
- Residential Amenity
- Archaeology
- Biodiversity
- Highway Safety
- Sustainability Considerations

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

Principle of Development

The application site is located outside of the defined development envelopes of the towns and villages within the district and is therefore within the countryside. Within the countryside, the Local Plan sets out that urban forms of development would not be appropriate or sustainable and not in accordance with the Spatial Strategy. The restraint on the amount of land removed from the countryside from development also contributes to the delivery of the Local Plan's vision and objectives regarding conserving and enhancing the quality and character of the countryside. Objective C of the Local Plan sets out an intention to conserve and enhance the quality and character of the countryside, its landscapes and wildlife.

For the principle of development to be acceptable, the proposal must fall within one or more of the categories of development set out under Policy SS9 of the Adopted Local Plan. This policy 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 one or more of the following categories:

- a) *Involve a change of use or the re-use of previously developed land, provided the proposed use is sustainable and appropriate to the location*
- b) *Are necessary for the efficient or viable operation of agriculture, horticulture, forestry or other appropriate land-based businesses, including the diversification of activities on*

an existing farm unit

c) Are small scale employment uses related to local farming, forestry, recreation or tourism

d) Secure the retention and / or enhancement of a community facility

e) Secure the retention and / or enhancement of a vacant or redundant building that makes a positive contribution to the character or appearance of the area and can be converted without complete or substantial reconstruction

f) Are in accordance with a made Neighbourhood Development Plan

g) The building is of exceptional quality or innovative design

Notwithstanding any possible compliance with one of the above categories of appropriate development within the countryside, in all cases, where development is considered acceptable in principle, it will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials.

When planning permission was granted the application clearly defined the garden curtilage of the barn subject to this application and that of the neighbouring two storey barn conversion to the south. Drawing number 011 Rev C excluded land within the site as a paddock together with the two areas of the site which formerly accommodated agricultural buildings from the defined garden curtilages. The site plan shows that a boundary fence and hedge was required to be provided at the end of the garden curtilage, to define the curtilage and amenity space for plot 1.



The defined garden curtilage in light green, paddock in dark green.

The development does not meet criteria (b to (g) of Policy SS9. In relation to criteria (a), for the principle of development to be acceptable, the application would need to demonstrate the land is defined as previously developed and ensure the change of use and structures proposed respect the form, scale and character of the landscape and comply with all relevant policy.

Prior to applying for planning permission, the authorised use of the site was agricultural as the building was a redundant farm building for livestock. The framework defines 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. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. Although the land had agricultural buildings on it, in planning terms this was greenfield land.

The approved site layout plan 011 Rev C has identified the land outside of the defined garden curtilages as paddock, and the case officer's report briefly refers to it as a horse paddock. However, no express planning consent was granted for the material change of use of the agricultural land to equestrian purposes and there is no evidence to suggest that the applicant has used the land for the keeping of horses. This is confirmed in the planning statement, which states that from the historic evidence, the site layout and use of the site did not change.

There are numerous appeal decisions in relation to equestrian uses of land and whether such land might constitute previously developed land. In situations where sites benefit from planning permission for a permanent equestrian structure and associated equestrian use of land, such as a stable and its curtilage, it would be reasonable to conclude that such sites constitute previously developed land. However, in accordance with the framework, it should not be assumed that the whole of the curtilage of a site should then be developed. In such situations the re-use of land and buildings for new development would be acceptable in principle under criteria a to Policy SS9, subject to acceptable impacts on the landscape and full consideration of all relevant local and national policy.

In this case, there has been no express planning permission granted to establish an equestrian use, nor has there been consent granted for any equestrian buildings such as stables on the site. The approved site layout plan identifies the barn to the north (the site of the current pergola) was to be demolished. Planning Permission would not be required to generally keep horses on agricultural land.

In the case of dismissed appeal reference APP/L3245/W/19/3223925, an applicant sought retrospective consent for the change of use of countryside to residential garden. In that case the site was largely lawned, like the application site, and there was a timber stable on the site surrounded by a post and rail fence which provided a small paddock. The appeal site, like the application site, was surrounded by open fields. There was a dispute between the parties over what the current use of the land was. The Inspector stated there was no evidence to suggest that the lawful use of the land was for garden use. On the balance of probabilities, the Inspector considered that the lawful use of the appeal site would be agriculture and dismissed the appeal as causing harm to the character and appearance of the countryside.

In the absence of any application to approve an equestrian building and establish the curtilage with that building, it is considered that the principle of development is unacceptable as the site is considered to be greenfield previously undeveloped land, not falling within any of the appropriate categories of development within the countryside as set out under Policy SS9.

Impacts on the Openness of the Countryside

Notwithstanding whether the site is previously developed in planning terms, policy SS9

requires all developments within the countryside to respect the form, scale and character of the landscape, through careful location, design and use of materials.

Policy SS1 (i) states that, in order to achieve sustainable development, development proposals should protect, create and/or enhance the character, quality and diversity of the district's green infrastructure and local landscapes, the wider countryside and ecological and biodiversity assets.

Policy SC3 (j) requires development proposals to accord with and respond to the established character and local distinctiveness of the surrounding landscape.

Policy SC5 of the Adopted Local Plan states where planning permission is required, proposals for the conversion of an existing building or structure, or the change of use of land, to a new use, will be permitted provided they comply with all of the following criteria:

- a) The building is worthy of retention, structurally sound and capable of conversion without substantial reconstruction*
- b) The conversion or change of use, is in keeping with the original character of the building or land and enhances the fabric and character of any adjacent buildings, or the landscape character type generally*
- c) The number of units and/or density of development is appropriate to the building's location*
- d) The building would have an existing curtilage or a curtilage can be created which does not adversely affect the landscape character type, the building itself or any adjacent structure*
- e) Utilities can be provided and the building has adequate access to a metalled road without creating traffic hazards and without involving road improvements incompatible with the character of the area*
- f) The development proposed does not add to flood risk concerns.*

Policy SC8 of the Adopted Local Plan states proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquillity unless the benefits of the development clearly outweigh the impacts. Development proposals should have regard to the Derbyshire Landscape Character Assessment, Historic Landscape Character Data and the Areas of Multiple Environmental Sensitivity and contribute, where appropriate, to the conservation and enhancement, or restoration and recreation of the local landscape.

Paragraph 180 of the framework states planning decisions should (a) contribute to and enhance the local environment by protecting and valued landscapes and (b) recognise the intrinsic character and beauty of the countryside.

To protect the countryside from harm, when the application was approved condition 15 was attached to the original consent which removes Permitted Development Rights in relation to extensions and external alterations of the barn and also for the erection of any incidental building, structure or enclosure, without the granting of planning consent. This was to enable the Local Planning Authority to retain control over future extensions and outbuildings in view of the form and layout of the development.

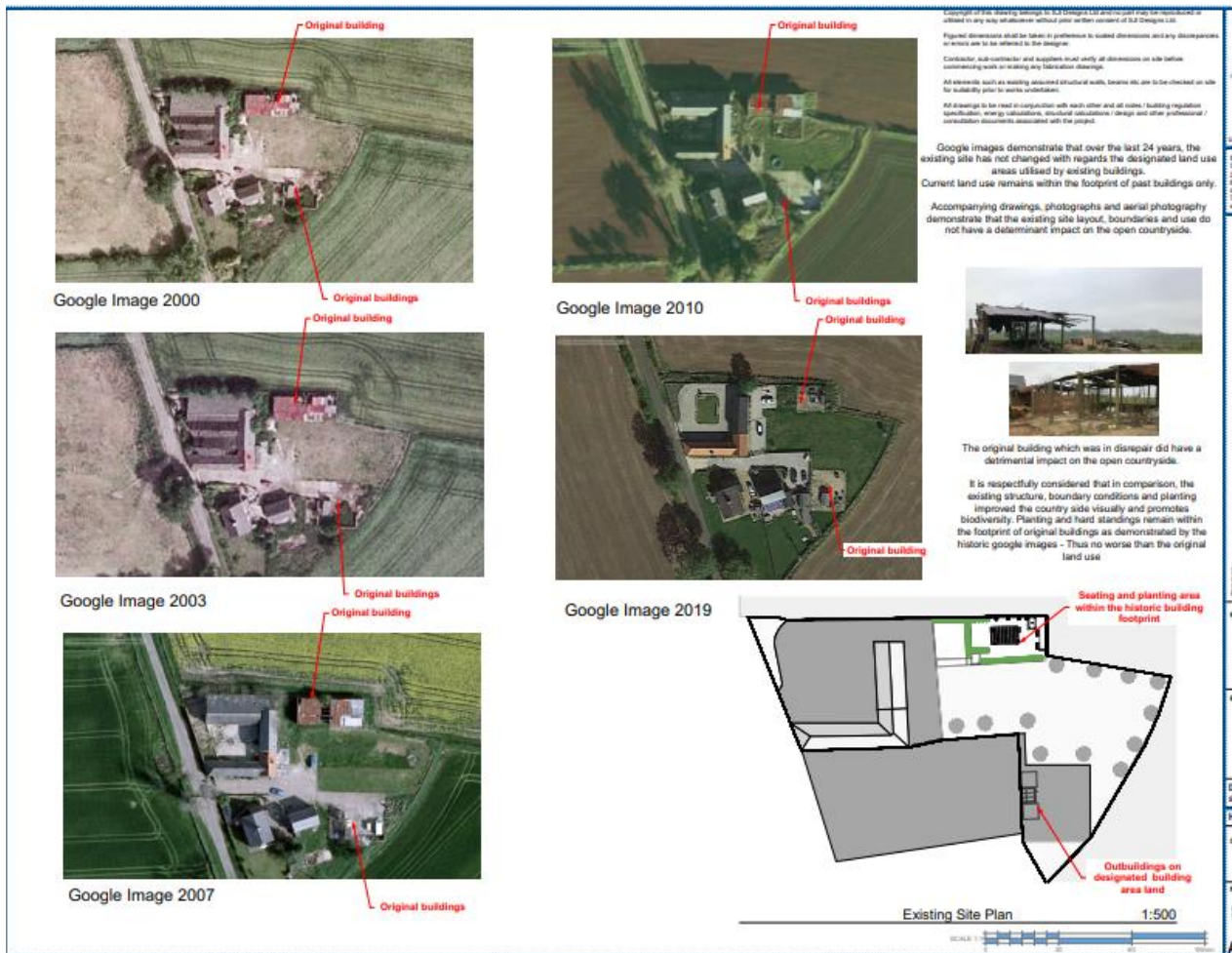
In addition, condition 16 of the original consent requires the following:

16. The boundary detail shown on the proposed site plan drawing 011 Rev C shall be implemented and retained and maintained in their approved position. Any new fencing shall be post and rail timber type supported by hedgerow planting where shown on the approved plan. The curtilages of the dwellings shall be confined to the areas shown on the approved plan and for purposes pursuant to Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no new boundary treatments shall be constructed within the paddock area which could effectively be construed as expanding the curtilages defined on the approved plan.

The approved boundary treatment included retention of a stone wall to the north, timber post and rail fencing (with some dilapidated fencing to be repaired), a hawthorn hedge and new boundary hedging. The applicant has erected boundary treatment not fully in accordance with that required by Condition 16 which includes a fence adjacent the northern seating area.



The paddock proposed to be used as garden curtilage.



Historic images of the site from 2000 to 2019.

The historic images plan shows that in 2000 the areas currently used for two separate outdoor seating areas once accommodated agricultural buildings. In 2010 the agricultural building to the north can still be seen and the building to the south is shown to be removed and an area of hard surfacing retained. The historic images plan includes photographs of the one of the original buildings on the site in a derelict condition. It is the view of the applicant that, in comparison to the derelict structures, the existing structures, boundaries and planting improve the countryside visually as planting and hard standings remain within the footprint of the original buildings.

The paddock area is currently well-maintained and cut grassland with post and rail fencing on its borders to open countryside. Presently the rear elevation of the barn conversion is open to the paddock, with no defined boundary treatment to separate it from the approved garden curtilage as shown on drawing 011 Rev C. The above photographs demonstrate how the paddock is open to the wider landscape setting of the barn conversion.

Although there are no structures erected on the current grassland, the paddock is well maintained grassland, visibility connected to the dwelling and, when considered with the seating area has a distinct domestic character associated with a well-maintained lawn.

Although the redundant agricultural buildings were derelict, these structures were appropriate to the countryside location in design terms, separating an agricultural character from residential character. If planning permission was granted for this change of use of

approximately 1375 square metres of land, it is considered to be reasonable to conclude that a more intensive residential appearance could follow from further ornamental planting, paraphernalia, pressure for further garden buildings and other structures.

Whilst it is appreciated that paraphrenia such as trampolines, seating and other moveable features would not be development, as the site is within such an open rural landscape, it is considered that the use of the whole site for garden would cause significant harm to the rural landscape appearance of the locality, which was safeguarded in the original consent.

The proposed double garage is proposed on the hardstanding of the former agricultural building to the north of the site, outside of the approved garden curtilage to the rear of The Old Dairy. The garage has a pitched roof to be built in stone elevations and roof tiles to match the host dwelling. A submitted perspective view, as shown below, shows the garage in the context of the wider site, showing the retrospective seating area with pergola to the rear, the paddock and second seating area in the distance. The garage represents an urban residential intrusion into the countryside, extending the domestic curtilage which is considered to be harmful to local rural character from a distinct change of character to domestic.



A submitted perspective view showing the proposed garage, rear seating area with pergola, paddock and second seating area in the rear, all of which are proposed to be incorporated as domestic garden.

In considering acceptable garden areas for residential dwellings, it should be noted the adopted Supplementary Planning Document 'New Residential Development' advises 90 square metres of garden areas are proposed for four-bed dwelling. This is not set in stone, and there should be flexibility having regard to local context. For countryside conversions, there may be a need to accept reduced garden areas in order to protect the countryside from residential encroachment, particularly for sensitive barn conversions where it is necessary to preserve the agricultural setting, an important component of the significance of such buildings. Therefore the 1375 square of additional garden area is excessive and extremely disproportionate to the size of the residential accommodation and a garden area which would be reasonably expected to provide a good standard of amenity for the occupants.

It is considered that the use of the land for an extended garden area, together with the proposed garage would cause a residential impact to the site, eroding the character and appearance of the countryside. In terms of national policy, the framework has an emphasis on protecting valued landscapes. It is appreciated this countryside location is not subject to any special designation, however it represents the rural landscape setting of an identified non-

designated heritage asset (the impacts on which are discussed in the next section of this report) and is therefore considered to be valued in this regard.

Permitted Development Rights could be removed regarding the erection of incidental/ancillary buildings within what would be an a very large garden curtilage, however it is not considered that this would sufficiently mitigate against the harm caused by the use of the overall site for domestic purposes, and the accompanying residential activities which come with that, and which would not amount to development or require the benefit of planning permission. It is considered that the paddock is of a sufficient size to allow a small group of animals to graze, which would retain the agricultural historic setting and character of the former agricultural building successfully. Alternatively, the site could be maintained as vacant paddock land to achieve this.

It is therefore considered that the proposal is contrary to Policy SS9 by failing to respect the form, scale and character of the landscape, through careful location, design and use of materials. The proposal is considered contrary to Policy SC5 (b) as the change of use is not in keeping with the original agricultural character of the land which existed when planning permission was granted and fails to enhance the fabric and character of the agricultural converted building and its landscape character generally. The proposal is considered contrary to Policy SC5 (d) as the application is proposing a garden curtilage which adversely affects the landscape character and fails to protect the agricultural landscape setting of an historic agricultural site and building. The proposal is considered contrary Policy SS1 (i) are a development which fails to protect character and quality of the landscapes and the wider countryside; and to Policy SC3 (j) which requires development proposals to accord with and respond to the established character and local distinctiveness of the surrounding landscape.

The proposal is considered contrary to Policy SC8 by causing significant harm to the character of the countryside; and contrary to Paragraph 180 (a) of the framework, by failing to protect this valued landscape, which protect the rural setting of the barn conversion and non-designated heritage asset.

Heritage Impacts

The District Council's Heritage & Conservation Manager (H&CM) has confirmed the barns that have been converted to residential are simple vernacular structures built in a functional style. Primarily constructed in magnesian limestone with a mixture of slate and pantile roofs, the barns are thought to date from the early to mid-19th Century to serve the working farm at Rowthorne 1km away.

The H&CM was involved with the original planning permission for the conversion of the barns to residential. As part of that application the buildings were regarded as non-designated heritage assets and considered to be of architectural and historic significance. During that time, careful consideration was given to defining the domestic curtilages as the landscape setting to the farm complex was considered to be an important feature.

Policy SC21 of the Adopted Local Plan states development proposals which positively sustain or enhance the significance of any local heritage asset and its setting will be permitted. Alterations, additions and changes of use should respect the character, appearance and setting of the local heritage asset in terms of the design, materials, form, scale, size, height and massing of the proposal. Proposals involving full or partial demolition of a local heritage asset will be resisted unless sufficient justification is provided on the proposed scheme and its

public benefits to outweigh the harm caused by the loss of the asset.

Paragraph 209 of the framework states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The original planning application was submitted with a Heritage Impact Assessment which identified the following:

“The NPPF defines the setting of a heritage asset as ‘the surroundings in which (it) is experienced’ and the English Heritage guidance considers traditional farm buildings to be an essential contributor to local character and distinctiveness in the countryside. The surviving farm buildings and associated farmhouse are very much an established component of this rural landscape, which is still used primarily for arable farming. The original buildings at Batley Farm were first developed at a time when there was a distinctive pattern of small, elongated fields, mainly in arable use and farmed by tenants on the Chatsworth Estate and whilst most of these smaller fields have been enlarged as a result of modern farming practices, there are still a number of surviving field boundaries that are shown on the 1838 Tithe Award map (Map 3).”

The District Council’s Historic Environment SPD was adopted in March 2006. Paragraph 3.19 recognises the importance of the setting of farm groups in the landscape stating that the setting of farm groups is important. The formation of new curtilages to create gardens will require careful consideration and will require careful consideration. The SPD also recognises that whilst enclosed spaces within farm complexes are often hard landscapes, the land surrounding farm groups is invariably open fields.

In order to protect the setting of farm groups in the landscape, the SPD advises the District Council will normally remove Permitted Development Rights. Page 26 of the SPD recommends that private amenity space for domestic outdoor equipment should be marked on proposal plans and located away from principal elevations.

The H&CM has confirmed that in order to protect the wider landscape setting of the non-designated heritage assets, the garden curtilages were tightly drawn (in accordance with drawing 011 Rev C) to avoid encroachment into the countryside. In light of the applications intention to significantly encroach the garden curtilage into the countryside the H&CM confirms she is unable to support the application due to a domestication of the wider landscape setting, contrary to the policies contained in the Local Plan and the framework for the protection of heritage assets and the countryside.

As required by the framework, there is a balanced judgement test which is necessary having regard to the significance of the asset against the scale of any harm or loss. In this case Officers have taken into account that a number of buildings are identified as non-designated heritage assets in numerous adopted Conservation Area Appraisals, however there are none which are identified outside of the district’s Conservation Areas and the Council does not have a local list/register of heritage assets. To be consistent with the previous application it is still considered that The Old Dairy is regarded as a non-designated heritage asset where policy SC21 of the Local Plan and Paragraph 209 of the framework are engaged.

The building is clearly of some significance, dating back to the 19th Century and due to its architectural merit, as referred to by the H&CM. The conversion has retained a distinct agricultural character, respecting the character of the former farmstead. By restricting the garden curtilage, the wider rural landscape setting of the farmstead was preserved, an important historic component of the farmstead throughout time.

The change in character that the change of use could cause is set out in the countryside section of this report. Whilst Permitted Development Rights could be removed by condition in relation to incidental outbuildings, numerous paraphernalia could be erected on the site without the benefit of planning permission creating a distinct domestic character, which is considered to cause some harm to the non-designated heritage assets from the loss of its setting. This could include anything from outdoor seating, play equipment such as climbing frames and trampolines and washing lines. Without these features, the paddock has a domestic appearance of a maintained lawn with no separation from the approved defined garden.

Therefore, the overall use of the paddock land for domestic purposes, and the introduction of the proposed garage, is considered to cause some harm to the non-designated heritage asset as a result of the loss of its agricultural setting and encroachment of garden into this setting. However, in the balanced judgement, it is not considered that the non-designated asset is of such significance that the harm would justify a recommendation of refusal of the application on heritage grounds.

Residential Amenity

Policy SC3 (n) of the Adopted Local Plan of the Adopted Local Plan requires a good standard of amenity is maintained for the occupants of existing neighbouring properties as well as the future occupants of new development, including levels of privacy and light, position and avoiding overbearing relationships and the provision of adequate amenity space. Paragraph 135 (f) of the framework states planning decisions should provide a high standard of amenity for existing and future users of land and buildings.

The Old Dairy has four no bedrooms. As referred to above the Council's adopted SPD 'Successful Places' advises that a minimum garden area of 90 square metres is provided for four and above bedroom dwellings. There is therefore no planning justification for the increase garden area of approximately 1375 square metres. Notwithstanding the above, the proposed change of use does not raise any amenity concerns and it is noted that no objections have been raised to the planning application on amenity grounds. The proposal is therefore considered in accordance with Policy SC3 (n) of the Local Plan and Paragraph 135 (f) of the framework.

Archaeology

Policy SC18 of the Adopted Local Plan states that proposals will be supported where the significance of scheduled monuments or archaeological sites, including their setting, is sustained and enhanced. Any development that adversely impacts a scheduled monument, physically and/or in terms of setting, will not be permitted except where the harm is demonstrably outweighed by public benefits.

The County Council's Archaeologist has confirmed that the fields to the north of The Old Dairy have entries on the Derbyshire Historic Environment Record for artefact scatters of

prehistoric, Roman and medieval date. The scatters are not especially dense – in Field KY4 immediately north of the farm (it appears that field boundaries have been removed since the material was collected around 1985) comprising a few flints, 2 sherds of Romano-British pottery and 10 sherds of medieval 'Chesterfield ware' – and are described as being associated with a NW-SE 'ridge' within the field.

This ridge is not especially apparent on the ground today but would appear likely to describe the central part of the field rather than its eastern or western ends. The artefact scatter may evidence an archaeological site of any or all of the above dates, though there is also potential for low-density activity (particularly the Roman material) to derive from manuring practices of the time. Given the low number of artefacts and their focus in the centre of the field (i.e. not immediately adjacent to the current proposal site) the County Council's Archaeologist does not raise any objection to the application, as it is not imagined that the proposed change of use would have any meaningful archaeological impact. The development meets the requirements of Policy SC18 of the Local Plan.

Biodiversity

Policy SC9 of the Adopted Local Plan states that development proposals should seek to conserve and enhance the biodiversity and geodiversity of the district and to provide net gains where possible. Proposals for development must include adequate and proportionate information to enable a proper assessment of the implications for biodiversity and geodiversity.

Paragraph 180 (d) of the framework states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Since 2nd April 2024 it has become mandatory for small sites to provide a 10% net-gain for biodiversity. This is in order to ensure developments result in more or better-quality natural habitat compared to what was there before the development.

The Government has set out exemptions where 10% biodiversity net gain is not required. These include development impacts a priority habitat less than 25sqm. In addition, applications for retrospective consent are also exempt under Section 73a of The Town and Country Planning Act.

This application meets the exemption because it is mostly retrospective in nature and the proposed double garage would be on existing hard surfacing and therefore does not impact on any habitat.



Proposed siting of the double garage outside of the approved garden curtilage.

The development would not cause any harm to protected species and is considered in accordance with Policy SC9 of the Local Plan and Paragraph 180 of the framework.

Highway Safety

The Highway Authority has confirmed no objections to the development confirming that the application will have no detrimental impact on the highway network. The Old Dairy was approved with four bedrooms and three parking spaces to the rear, in accordance with the Council's adopted minimum parking standards set out under Appendix 8.2 of Policy ITCR11. There is also capacity to park vehicles within the front garden curtilage of the dwelling. The double garage would provide further parking for the benefit of the applicant. The development does not result in the loss of any parking and is considered in accordance with Policy ITCR11 of the Adopted Local Plan and Paragraph 115 of the framework, as the development would not have an unacceptable impact on highway safety.

Sustainability Considerations

Paragraph 7 of the framework explains the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs⁴. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection.

Paragraph 8 of the framework states achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

Much of the application is for retrospective development. It is anticipated that approval of the application would increase the value of the property, benefiting the applicant. The construction of the proposed garage would benefit a local construction company and economy on a temporary basis. The economic objective is met.

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

The proposal would create a significant garden curtilage for the occupants of the dwelling which would benefit the applicant's health and well-being. The social objective is met.

c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy

The change of use would fail to protect the rural character of the countryside from the introduction of a domestic character and intrusion of garden curtilage and the proposed garage into the countryside. The environmental objective is not met.

CONCLUSION

The application proposes the retrospective change of use of approximately 1375 square metres of greenfield land to be included as domestic garden to The Old Dairy and the erection of a double garage outside of the defined garden curtilage of the barn conversion. This is contrary to the criteria of Policy SS9 which sets out development which is not inappropriate within the countryside.

The development represents a significant extension of residential garden into the rural setting of the barn conversion, which together with the proposed garage and seating area is considered to harm the rural character of the landscape, fail to enhance the agricultural landscape character of the site and fails to provide a garden curtilage which does not adversely affect the landscape character type, contrary to Policy SC5 (a) and (b).

The development is considered to represent an environmentally unsustainable form of development which fails to meet the environmental objective of sustainability as set out in paragraph 8 of the framework.

RECOMMENDATION

The current application be REFUSED for the following reasons:

1. The application represents the change of use of previously undeveloped land to residential garden and development outside of the dwelling's defined garden curtilage contrary to Policy SS9 of the Adopted 2020 Local Plan for Bolsover District, which sets out a number of criteria where development within the countryside, outside of the defined development envelopes within the district, will be supported in principle.
2. The proposals, by virtue of representing a significant intrusion of residential garden of a scale and footprint which is excessive and disproportionate to that required for the

dwelling; a proposed double garage of a domestic form and appearance wholly out of scale and character with The Old Dairy; together with associated outbuildings extending into the countryside, outside of the defined garden curtilage of the barn conversion, are considered to harm the form, character and appearance of the rural landscape setting to the dwelling and the countryside, contrary to Policy SS9 of the Adopted 2020 Local Plan for Bolsover District. The change of use would cause an inherent residential character and loss of agricultural setting, which is an important component of this historic farmstead, failing to enhance the rural character of the building and landscape character generally; contrary to Policy SC5 (a) and (b) of the Adopted Local Plan; and contrary to Policy SC8 of the Adopted Local Plan by causing significant harm to the character, quality and distinctiveness of the landscape. The proposal is considered contrary Policy SS1 (i) of the Adopted Local Plan by failing to protect the character and quality of the landscape and the wider countryside; and to Policy SC3 (j) of the Adopted Local Plan which requires development proposals to accord with and respond to the established character and local distinctiveness of the surrounding landscape. The proposal is contrary to Paragraphs 180 (a) and (b) of the National Planning Policy Framework by failing to protect a valued landscape in the context of the setting of a non-designated heritage asset; and by failing to recognise the intrinsic character and beauty of the countryside. The development represents an environmentally unsustainable form of development contrary to Paragraph 8 of the National Planning Policy Framework.

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. Officers have not entered into negotiations during the course of the application as it was not considered possible to make any minor alterations to the proposal which would make the proposal policy compliant, or overcome the concerns raised in relation to the impacts on the character of the countryside. Officers have sought to be proactive by taking the planning application to the nearest available Planning Committee for determination.

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.