

PARISH Clowne Parish

APPLICATION Retrospective change of use to equestrian and siting of 2 x wooden field shelters
LOCATION Land North Of 14 To 36 Harvester Way Clowne
APPLICANT Mr John Allsop 36 Harvester Way Clowne ChesterfieldS43 4FF
APPLICATION NO. 24/00560/FUL **FILE NO.**
CASE OFFICER Mrs Karen Wake
DATE RECEIVED 3rd December 2024

SUMMARY

The application is for the retention of the use of the land for the keeping of horses and the retention of the two field shelters. The site lies beyond the southwestern edge of the settlement of Clowne and immediately to the north of a housing estate built out by Avant Homes known as 'The Edge'. With the area of public open space to the west of the housing estate and protected playing fields to the north of the site, the land comprises protected green space in the Local Plan for Bolsover District (2020).

The application has been referred to Planning Committee because it is recommended for approval on a temporary basis and is contrary to planning policies in the development plan.

The use of the land for the keeping of horses and associated operational development has eroded the value of the green space and, in this respect, results in some harm to the landscaped setting of the adjacent housing development. The proposed use will, however, maintain the openness of the site and the field shelters are positioned in locations that have a minimal impact on the wider landscape. The proposal is therefore not considered to be so harmful, to the setting of the settlement or wider landscape given the localised impacts, so as to conflict with Policy SS9 and SC3 of the Local Plan for Bolsover District (2020).

The site does, however, form part of a wider area of protected green space in the development plan. It was purposefully included to provide amenity green space to the adjacent housing development and to improve connectivity through the site to the protected playing fields to the north. The Council is currently investigating its options within regard to taking ownership of the land. This could lead to compulsory purchase measures being pursued, based on the planning purposes outlined in the local plan.

A temporary, 18 month planning permission is therefore considered to be appropriate in this case, given the conflict with Policy ITCR6 to enable the temporary use of the land, prior to any longer-term proposals coming forward (to meet local plan policy and retain the allocated green space). This will allow the District Council to explore the possibility of acquiring the land to enhance and improve the connectivity of the allocated green space to fulfil the purposes outlined in the local plan over this period and give the applicant time to find alternative land to keep his horses and to re-locate the field shelters.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 24/00560/FUL

SITE & SURROUNDINGS

The site comprises a generally level area of land, some 0.27ha in area, used as a paddock with a post and rail fence along the north and south boundaries. To the north of the site are playing pitches and to the south are two storey dwellings and an area of public open space. On the east boundary is temporary site fencing with an area of grassland beyond. On the west boundary is a mature hedge and there are two field shelters within the site, adjacent to this hedge line. The site is currently used for the keeping of horses.

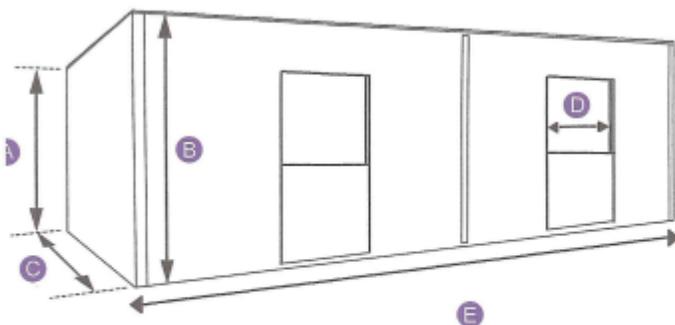
BACKGROUND

The site was previously in agricultural use. The land to the south of the site formed part of the same agricultural use but this area was granted planning permission for residential development including a formal green space. The application site was excluded from the residential planning application site because the ownership of the site could not be established as there is no title deed for this piece of land. The site therefore remained in agricultural use until the applicant took possession of the site in 2017 and fenced the site off. The site appears to have been used for the keeping of horses since that time without the benefit of planning permission. The two field shelters were subsequently erected in 2020 and are also unauthorised.

PROPOSAL

The application is for the retention of the use of the land for the keeping of horses and the retention of the two field shelters. The field shelters are constructed in timber with black onduline roofs.

Field Shelter 1



Dimensions

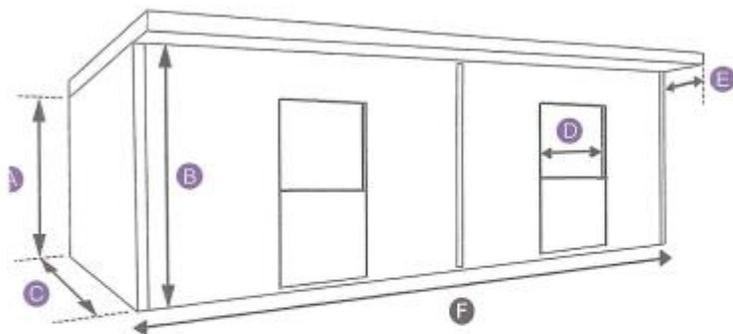
A =2.1metres
C=3.1metres
E=5.7metres

B=2.6metres
D=1.2metres

Construction

Timber clad with Onduline roof sheets

Field Shelter 2



Dimensions

A =2.1metres
C=3.6metres
E=0.5metres

B=2.6metres
D=1.2metres
F=7.5metres

Construction

Timber clad with Onduline roof sheets

AMENDMENTS

None

EIA SCREENING OPINION

The proposals that are the subject of this application are not EIA development.

HISTORY

None

CONSULTATIONS

Parish Council:

No comments received.

Environmental Health Officer:

Suggests notes to be added to any planning permission regarding burning of waste, storage of manure, liquid run off and planning permission not providing exemption against statutory nuisance. Advises conditions requiring no business use to operate from the stables and no storage of horse boxes, trailers, van bodies and portable buildings or other vehicles be kept on the land other than for the loading and unloading of horses.

DCC Highways:

No objections. Advise not to be added to any planning permission to advise the applicant that Clowne Public Footpath No. 20 runs adjacent to the east of the proposed development site, as shown on the attached plan. No objections providing the width of the path is not encroached upon by the proposed gardens as it appears that the route will be ultimately unaffected by the proposed works. Request the applicant is 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, consideration should be given to the safety of members of the public using the path during the works, a temporary closure of paths will be permitted on application to DCC where the path remains unaffected on completion of the development and there should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section.

Planning Policy Manager

It is considered that the proposed change of use of the land from the green space allocation within the Local Plan for Bolsover District (March 2020) to equestrian and siting of 2 x wooden field shelters would be contrary to policies:

- ITCR6: Protection of Green Space; and
- SS9: Development in the Countryside unless it is judged that this proposal would respect the form, scale and character of the landscape, through careful location, design and use of materials.

On this basis, the application should be refused unless other material considerations indicate otherwise.

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

PUBLICITY

Site notice and neighbours notified.

21 representations made in support of the proposal.

These residents enjoy watching/visiting the horses. They find them good for mental health and feel they are a part of the estate which has been there for many years. They consider the shelters blend into the hedge and trees around them and prefer them to the fence and floodlights to the multi-use games area. They feel the land was previously agricultural and the horses give a rural feel to the area. They consider the land to be clean, tidy and well-kept and the horses do not have any effect on nearby wildlife or cause noise or disturbance to residents.

One objection received which raises the following issues:

1. A new build housing estate is not the appropriate location for a small holding. The land was intended as a wild meadowland border by the developers and planners for the estate and should be returned to its intended state.
2. There is frustration about the amount of straw, hay, feed and mud along the roads, footpaths and on adjacent property created by the running this small holding.

3. The small holding has clear visibility into the windows, including bedrooms of adjacent houses resulting in a loss of privacy and the need to keep bedroom blinds permanently closed.

One objection has also been received anonymously and as such limited weight can be attributed to the issues raised however the concerns raised in that objection are of a similar nature to those set out above.

POLICY

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

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

- SS1 (Sustainable Development)
- SS9 (Development in the Countryside)
- SC1 (Development within the Development Envelope)
- SC2 (Sustainable Design and Construction)
- SC3 (High Quality Development)
- SC5 (Change of Use and Conversions in the Countryside)
- SC11 (Environmental Quality (Amenity))
- ITCR6 Protected green space

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 (paras. 7 – 14): - Achieving sustainable development.
- Paragraphs 48 - 51: Determining applications.
- Paragraphs 56 - 59: Planning conditions.
- Paragraphs 96 - 108: Promoting healthy and safe communities.
- Paragraphs 124 - 128: Making effective use of land.
- Paragraphs 187, 193 and 195: Conserving and enhancing the natural environment.
- Paragraphs 196 - 201: Ground conditions and pollution.

Supplementary Planning Documents and advice notes

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.

ASSESSMENT

Key issues

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

- Principle of the development in the countryside
- Principle of the development on a protected green space
- residential amenity.
- whether the development would be provided with a safe and suitable access and impacts on highway safety.

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

Principle of the development in the countryside and the impact on the character of the countryside

The site is outside the development envelope in an area of countryside.

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. In all cases, where development is considered acceptable it will be required to respect the form, scale and character of the landscape, through careful location, design and use of materials. Furthermore, in making this part of the assessment of the application, it is considered that policy SC3: High Quality Design and the design guidance provided by Successful Places SPD should be utilised.

It is recognised that the stated categories of policy SS9 do not include the change of use of previously undeveloped land, i.e. greenfield land, located in the countryside. Equestrian uses can be an acceptable land use in some countryside locations, however, such use and the associated structures and paraphernalia that accompany equestrian uses can detract from the visual amenity of the area. It is for this reason that policy SS9 requires all proposals where development is considered acceptable are required to respect the form, scale and character of the landscape, through careful location, design and use of materials.

Policy SC3 requires development to achieve a high quality of design in terms of place making, buildings and landscaping and states proposals for development will be permitted provided they respond to the established character and local distinctiveness of the surrounding landscape amongst other considerations.

The application site prior to its current unauthorised use comprised green space, which, together with the protected public open space to the south and protected playing fields to the north softens the urban fabric of the settlement and makes a positive contribution to the setting of The Edge development. The use of the land for the keeping of horses and associated operational development has eroded the value of the green space and, in this respect, results

in some harm to the landscaped setting of the adjacent housing development. The proposed use will, however, maintain the openness of the site and the field shelters are positioned in locations that have a minimal impact on the wider landscape, with existing landscaping and landform containing the development and filtering wider public view. The proposal is therefore not considered to be so harmful, to the setting of the settlement or wider landscape given the localised impacts, so as to conflict with Policy SS9 and SC3 of the Local Plan for Bolsover District (2020).

Principle of the development on a protected green space

The site is outside the development envelope on a site allocated as protected green space in the adopted local plan

Policy ITCR6: Protection of Green Space states that “development proposals will be permitted where they do not result in the loss of existing green spaces, including allotments and village greens, as identified on the Policies Map or in the Council’s Green Space Strategy, and associated documents, or any future green space.

Proposals resulting in a loss will need to provide a satisfactory replacement facility, unless the proposal was of greater overall benefit to the local community than existing or realistic potential uses of the green space.

The Policies Map identifies the application site as part of the protected green space that includes the playing pitches south of the District Council offices and the formal green space to the north and west of The Edge. The formal green space as delivered by the residential development of The Edge is at present not connected to the playing pitches as the application site has been fenced off, preventing free or controlled access between the two.

It is recognised that the lack of free or controlled access between the adjoining parts of the green space is detrimental to the quality of the green space as a whole.

The land has no registered title, so the ownership at the time of writing remains unclaimed. This has been the case for some time and as a result the site was excluded from the application site for the residential development and formal green space adjacent to the site because the developer, Avant Homes, was unable to secure the ownership of the land as a result. This situation has left the land unclaimed, albeit it is known that the applicant has taken possession of the land with the intent on securing adverse possession. The applicant states that they were allowed to take possession of the land by Avant Homes, with the actual landowner still unknown. The applicant claims to have been using the land as a paddock since January 2017 and that they commenced first registration of the land on 5th December 2024 by paying the registration fee to the Land Registry.

The Council is investigating its options within regard to taking ownership of the land. This could lead to compulsory purchase measures being pursued, based on the planning purposes outlined in the local plan. If this was the case, this would provide a realistic potential use for this part of the green space allocation and, if approved, the proposal could prejudice this future use. On this basis, the proposal would be contrary to policy ITCR6 unless the proposal is of greater overall benefit to the local community than the existing or realistic potential uses of the green space.

21 letters of support have been received from local residents which refer to the benefits provided by the current use of the site and wish to see the current use remain. However, if there is a realistic prospect that a scheme could be secured which would allow the site to link the existing formal open space to the playing pitches, this could provide a greater benefit to the community than the existing use of the site, in which case the development is considered to be contrary to Policy ITCR6 in this respect.

Residential Amenity

The field shelters are set well away from the closest dwellings to the site. The field is partly adjacent to the existing public open space/play area and partly adjacent to dwellings. The private use of the land for the keeping of horses is not considered to result in unacceptable levels of noise, dust, odour or loss of privacy for adjacent residents. Subject to a condition requiring the use to remain private and no trade or business to be carried out from the site, the proposal would not result in an unacceptable loss of amenity for residents of the adjacent dwellings. On this basis the proposal is considered to meet the requirements of Policies SC3 and SC11 of the Local Plan for Bolsover District in this respect.

Access/Highways

The site is accessed via a gate onto a lightly trafficked highway with good visibility in each direction. The use of the land for the keeping of horses is for a private/hobby use with no business carried out from the site and this can be controlled by condition. The proposal is not considered to result in a material intensification of the use of the residential street it is accessed from, and there are no objections to the proposal from the Highway Authority. The proposal is therefore 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 in this respect.

Ecology and Biodiversity Considerations

Key Biodiversity Information	
Reason if exempt from the biodiversity gain plan condition	Retrospective application made under the S73A relating to a land-use started prior to the introduction of mandatory biodiversity net gain.

Issues raised by residents

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

The issue of the land being intended as a wild meadowland by the developers has not been considered as the site was not included in the application site.

CONCLUSION

The use of the land for the keeping of horses and associated operational development has eroded the value of the green space and, in this respect, results in some harm to the landscaped setting of the adjacent housing development. The proposed use will, however, maintain the openness of the site and the field shelters are positioned in locations on the site that have a minimal impact on the wider landscape. The proposal is therefore not considered to be so

harmful, to the setting of the settlement or wider landscape given the localised impacts, so as to conflict with Policy SS9 and SC3 of the Local Plan for Bolsover District (2020).

The site does, however, form part of a wider area of protected green space in the development plan. It was purposefully included to provide amenity green space to the adjacent housing development and to improve connectivity through the site to the protected playing fields to the north. The Council is currently investigating its options within regard to taking ownership of the land. This could lead to compulsory purchase measures being pursued, based on the planning purposes outlined in the local plan. Policy ICTR6 states that proposals resulting in a loss of protected green space will need to provide a satisfactory replacement facility, unless the proposal was of greater overall benefit to the local community than existing or realistic potential uses of the green space.

While the majority of representations received support the proposal, the ability of the District Council to use powers to acquire the land to connect the existing public open space and playing fields is a realistic and more beneficial use of the land to the wider local community. The development is considered to conflict with Policy ICTR6 in this respect. A temporary, 18 month planning permission is therefore considered to be appropriate in this case, given the conflict with Policy ICTR6 to enable the use of the land to continue, prior to any longer-term proposals coming forward (to meet local plan policy and retain the allocated green space). This will allow the District Council to explore the possibility of acquiring the land to enhance and improve the connectivity of the allocated green space to fulfil the purposes outlined in the local plan over this period and give the applicant time to find alternative land to keep his horses and to re-locate the field shelters in circumstances where it is acquired by the District Council.

RECOMMENDATION

That TEMPORARY PLANNING PERMISSION BE APPROVED subject the following conditions:

1. The use hereby permitted shall cease and the field shelters shall be removed from the land on or before 16th October 2026 unless prior to that date the Council has on an application made to it, approved the use or operational development for a further period.
2. The use of the land and buildings shall be for the keeping of horses for private use only. No trade, business or commercial use in connection with the keeping of horses must be carried out.
3. The buildings hereby approved must be maintained in a dark green, dark brown or black colour unless otherwise agreed in writing by the Local Planning Authority.

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.