

DELEGATED DECISION REPORT

HPK/2022/00536
Valid 07/12/2022

**LAND REAR OF 44 TO 46,
TOWN LANE,
CHARLESWORTH,
DERBYSHIRE**

**CONSTRUCTION OF A NEW 2
STOREY, 3 BEDROOM
DETACHED DWELLING WITH
ASSOCIATED LANDSCAPING
AND CAR PARKING**

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Visual Amenity Impact and Conservation
- Impact on Residential Amenity
- Highway Safety
- Landscape and Biodiversity

DESCRIPTION OF SITE

The application relates to a parcel of land to the rear of 44-48 Town Lane, Charlesworth. The site is situated within the settlement boundary of Charlesworth.

The site is located within the limits of the Charlesworth conservation area as well as in the setting of designated heritage assets, nos. 46 and 48 Town Lane, Grade II listed buildings.

The application site forms an L shape with the narrowest section adjacent to Chapel Brow to the east with the site widening further west. A change in levels is noted across the site with land to the south and west being higher than land to the north and east.

It is bound to the east by a drystone wall and to the south and west by a hedgerow. The existing site accommodates a disused swimming pool within the residential curtilage of no. 44-48 Town Lane.

PROPOSAL

The application proposes the construction of a new dwelling to the rear of no. 44-48 Town Lane with access taken from Chapel Brow. The proposed dwelling is split level being two storey in appearance when viewed from the north west and single storey when viewed from the south east. The dwelling is therefore in part built into the difference in levels across the site and utilises the existing site levels to sit within the existing site topography. The site currently contains a disused swimming pool which will be infilled.

The new access created from Chapel Brow is proposed at a point to the south of an existing outbuilding, sited south of number 48 Town Lane. The proposals would also include repair of the wall along this boundary in like for like materials.

The application has been amended since initial reception to include a revised fenestration design to side elevations and to increase internal garage dimensions and provide an increased area for turning to the front of the property.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted High Peak Local Plan 2016.

High Peak Local Plan 2016

- Policy S 1 Sustainable Development Principles
- Policy S 1a Presumption in Favour of Sustainable Development
- Policy S 2 Settlement Hierarchy
- Policy S 5 Glossopdale Sub-area Strategy
- Policy EQ 2 Landscape Character
- Policy EQ 5 Biodiversity
- Policy EQ 6 Design and Place Making
- Policy EQ 7 Built and Historic Environment
- Policy EQ 9 Trees, woodland and hedgerows
- Policy EQ11 Flood Risk Management
- Policy H1 Location of Housing Development
- Policy H3 New Housing Development
- Policy CF 6 Accessibility and Transport

National Planning Policy Framework

- Section 2 Achieving sustainable development
- Section 4 Decision-making
- Section 12 Achieving well-designed places
- Section 16 Conserving and enhancing the historic environment

Supplementary Planning Documents and Guidance

- Residential Design SPD (2005)
- Landscape Character SPD (2006)
- High Peak Borough Council Design Guide SPD (2018)
- Charlesworth Conservation Area Character Appraisal, Adopted October 2010

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

- Change of use to residential and detached new dwelling with onsite parking accessed off Chapel Brow at land opposite 2, Chapel Brow (HPK/2018/0048) – withdrawn 1 April 2018
- Erection of railing and stone planter (HPK/2003/0413) – Approved 15 August 2003
- Animal shelter (HPK/0003/7904)- Refused 6 April 1999, allowed at appeal

CONSULTATIONS

Publicity

Site Notice expiry date: 12/01/2023

Neighbour consultation period ends: 12/01/2023

Press Advert: N/A

Public Comments

One objection has been received siting the following concerns:

- The 'Design and Access Statement' states that an ATC (Automatic Traffic Counter) was installed by SCP. The only ATC installation we observed was on the main part of Chapel Brow, not the narrower road of the V related the proposed property entrance. Also, one of the pair of related ATC cables crossing the road was snapped due to passing traffic with two days of installation (photo available). If this was the related ATC installation, these points render the information collected as invalid.

- The '14647 - 31A - Proposed Dry Stone Wall Visuals' rendering (and the same rendering also within the 'Design and Access Statement') gives the illusion that the road is far wider than in reality. It is a narrow single lane road with a left bend leading into it, effecting visibility.

- Proposed reduction in height and amount of the historic dry-stone wall being removed is significant. For example, the 'Design and Access Statement' states that 'the wall heights reduced to 0.6m' Currently the wall height is in excess of 1.8m in places, meaning that the majority of protected historic wall related to this planning application will be lost if this were approved.

- After removal of this historic stone wall, it is still questionable whether this will provide enough acceptable and safe visual splay for vehicles leaving or passing the proposed driveway entrance. Vehicles can be seen racing both up and down this related side of the V to skip ahead of other vehicles. Also, vehicles use this when traffic backs up on the other side of the V with several near misses and accidents occurring on this narrow stretch of road every year.

- Concern raised in the previous planning application HPK/2018/0048 in relation to damage to the historical tunnel (underground passage) still apply (Please refer to the HPK/2018/0048 'Consultation Response Charlesworth PC'). The necessary excavations related to the creation the propose new driveway, significant wall height reduction and removal of related earth could cause damage. The new planning applications 'Heritage statement' briefly mentions the underground passage but makes no attempt to address original the concern.

- The proposed development's modern design is not sympathetic with the surrounding properties/conservation area and has a detrimental impact on the grade 2 listed building that will adjoins the proposed development. This could further, and irreversibly, erode the rural setting of the conservation area.

- Any approval of this proposed development, and its related access driveway, could set a precedent for access for further developments related to the area surrounding the new property.

- There is no mention in this planning application of the pond in the fields behind Rose Cottage that is within 500 metres of the proposed development. Or any refer to a habitat sustainability survey. Great Crested Newts have been seen in the area, yet no assessment has been conducted as to whether Great Crested Newts will be affected by the development proposal. Current legislation and protection laws make it illegal to deliberately disturb Great Crested Newt breeding sites and to damage, destroy or obstruct access to Newt breeding sites or resting places. Considering the amount of excavation that is to be carried out to construct the access road into the proposed development and the significant disturbance of the historic dry-stone walls, which will be required to construct the driveway, there is a legal requirement that this must be completed to correctly assess the planning application in line with 'The Conservation of Habitats and Species Regulations 2017'

Town / Parish Comments

1. The proposal is sited within Charlesworth Conservation Area and the design of the new building pays little regard to the immediate style of buildings and the wider vernacular, especially within the setting of the listed 46-48 Town Lane
2. The proposal takes up the greater part of the garden and amenity area for Nos 44-46 Town Lane and is an unacceptable extension of the built-up area of Charlesworth within the Conservation Area
3. The proposed access to Chapel Brow is very dangerous onto such a narrow lane, whether approaching from the northwest or southeast
4. The loss of a significant length of the historic stone wall fronting Chapel Brow (which is in a very poor condition) to allow for the visibility splay for the new entrance, and the reduction in height of the wall along much of its length, is to be regretted and will have an impact on the character of the Conservation Area
5. The new development will impact on the setting of the listed Independent Chapel, and on other buildings fronting Town Lane
6. There is no justification for a new family dwelling in this location

Derbyshire County Council Highways

The Proposed Site Plan with Vehicle Tracking demonstrates sufficient space within the site to enable residents vehicles to both enter and emerge from the site in a forward gear, inline with the Highway Authorities previous response. Whilst turning space for a delivery type vehicle may still be restrictive, on the basis of the sites location, on a road where vehicle speeds and volumes are low, it is not considered that a delivery vehicle (deliveries being sporadic) potentially reversing out of the site would have a severe impact on highways safety. Therefore, there are no grounds for a highway safety objection. Additionally, the internal dimensions of the proposed double garage have been increased, the revised dimensions are in accordance with guidance for a double garage to be considered as 2no parking spaces. The revised Site Plan also demonstrates an area for the storage / collection of bins in close proximity to the public highway (Chapel Brow), which is sufficient from a highways point of view, the applicant will need to consult with the relevant refuse collection department to confirm this is acceptable.

In view of the above comments, the Highway Authority has no objections to the proposal, subject to conditions.

Environmental Services (Waste)

Waste Operations have no objections to this application - HPK/2022/0536. The only comment is to confirm that waste will need to be presented at the curtilage of the property.

United Utilities

No objection subject to advice notes.

Conservation Officer

This scheme shows a contemporary build to the rear of the Grade II listed 46 and 48 Town Lane (Historic England Listing Entry no: 1087987) within Charlesworth Conservation Area.

The scheme seems to note the vernacular material palette of which is paired with a modern twist on a fairly small, modest dwelling. It is seen from the proposal that the new dwelling will be set back from the main thoroughfare, and nestled behind the Grade II building that dominates the corner of Town Lane to Chapel Brow. The landscape seems to afford the new dwelling the advantage of seeming to be undetectable.

See drwg ref: 14647-28A-Proposed approach visual, I appreciate the simplicity of the design of the frontage and it seems to integrate well into the setting. However see drwg ref: 14647-29A Proposed rear and side visuals, I fear these elevations lend themselves more to resemble a commercial or office building, and is quite contrasting to the modest residential feel to the former drawing mentioned. I am inclined to suggest the glazing be reduced to a degree on these elevations, to retain a level of interest and continue the subserviency of the structure, and its domestic feel.

OFFICER COMMENTS

Principle of Development

The application proposes the construction of a new dwelling. Policy S1a of the adopted local plan reflects the presumption in favour of sustainable development set out within the National Planning Policy Framework (NPPF).

Section 2 of the NPPF sets out the presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with the development plan without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies indicate development should be restricted.

The Parish Council state that there is no justification for a family dwelling this location. Policy H1 of the Local Plan refers to the location of new housing development. The policy supports housing development on unallocated sites within

the defined built up area boundaries of the towns and larger villages, and promotes the effective reuse of land by encouraging housing development which includes redevelopment. The site is located within the built up area boundary of Charlesworth as defined within the adopted Local Plan Proposals Map.

Charlesworth is defined within Policy S2 of the Local Plan as a 'Larger Village', described as the most sustainable villages in the rural areas. Development within the boundaries of larger villages of an appropriate scale and nature will be allowed. The site is located in the limits of the Charlesworth Conservation area however the site is not directly constrained by any other sensitive statutory designation and is therefore not subject to any of the restrictive policy areas set out in the NPPF. The presumption in favour of sustainable development is therefore engaged. Given the location of the site, the nature of the proposed development, previous planning history, and policy context outlined above, it is considered that the principle of development has already been established and is acceptable subject to all relevant material considerations.

Design and Conservation (Conservation Area and Listed Buildings)

The Planning (Listed Buildings and Conservation Areas) Act 1990 refers to the 'preservation' or 'enhancement' of the special architectural or historic interest of the heritage asset or its character and appearance. The NPPF sets out in Chapter 16 of the document decision-making policies using different terminology, referring in particular to 'conservation of significance'. It is important to note that 'conservation' and 'preservation' are concerned with the management of change in a way that sustains a heritage asset's special interest or significance. However, 'conservation' has the added dimension of taking opportunities to enhance significance where opportunities arise and where appropriate.

Section 16 of the NPPF seeks to conserve heritage assets in a manner appropriate to their significance. This is echoed within local plan policy EQ7.

Paragraph 201 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

In this instance the proposal sits within the setting of Grade II listed 46 and 48 Town Lane as well as the Charlesworth Conservation Area.

Local Plan S1 explains the Borough Council will expect that all new development makes a positive contribution towards the sustainability of communities and that this will be achieved by:

- Taking account of the distinct Peak District character, landscape, townscape, roles and setting of different areas and settlements in the High Peak;

and

- Protecting and enhancing the natural and historic environment of the High Peak and its surrounding areas including the Peak District National Park;

Local Plan EQ7 requires proposals that affect a heritage asset and / or its setting to demonstrate how the proposal has taken account of design, form, scale, mass, use of traditional materials and detailing, siting and views away from and towards the heritage asset in order to ensure that the design is sympathetic and minimises harm to the asset.

Section 12 of the NPPF places great importance of good design and states that good design is a key aspect of sustainable development. Local Plan Policy EQ6 requires that all development should be well designed and of a high quality, responding to its environment whilst also contributing to local distinctiveness and sense of place.

The High Peak Design Guide 2018 requires new development to be guided by existing character and context, including the grain of development and building heights.

The proposal would result in a new contemporary style dwelling completed in local materials sited to the rear of nos. 44-46 Town Lane with independent access taken from adjacent Chapel Brow. The Parish Council and residents have expressed concerns about the contemporary design approach and loss of / reduction in height of the historic wall at the site entrance. The existing site had a limited impact and contribution to the Conservation Area and owing to the topography at this location the existing ground level and subsequent overall height of the proposed dwelling would sit to a lower positioning when viewed from Chapel Brow and the proposed access point. When viewed from Town Lane, the application site remains well screened by the existing development and the area between nos. 42-44 Town Lane consists of built up boundary of a stone wall some 2m in height and additional vegetation growing above.

The topography of the application site combined with the proposed design which is somewhat built into the change in levels across the site means that when viewed from vantage points along Chapel Brow and in the context of the streetscene here the dwelling proposed would have the appearance of a single storey property. The Conservation Officer notes the topography at this location would lend itself to a new dwelling at this location being potentially 'undetectable' and subject to a correct use of materials which could be secured by condition, result in a form of development that fits well into the existing vernacular at this location. Subject to a proposed fenestration revision which was secured as part of the application process no objection was received from the Conservation Officer with regards to the impact of the proposed development on designated heritage assets and as such the proposal is considered acceptable in this regard.

Alongside the Local Plan, the Council's Charlesworth Conservation Area Character Appraisal, Adopted October 2010, provides an insight and summary into the special interest of the Charlesworth Conservation area. One of the elements of special character highlighted by the appraisal includes the 'panoramic views from the upper parts of the Conservation Area and significant views out to the south, west and north'. This is reiterated further on in the Appraisal 'The Conservation Area's position

on a hillside affords many views from various parts of the area. There are spectacular panoramic views from the higher part of the Conservation Area, specifically from Back Lane, Chapel Brow, and Boggard Lane'.



Above: A view of the application site facing north west from the Charlesworth Independent Chapel.

Having considered the significance of the panoramic view and open character nature it is considered that owing to the specific design and siting of the proposed dwelling which will be set into the landscape at this location, the proposal would not have an unacceptable impact on this panoramic view from the higher parts of the Charlesworth Conservation area.

Therefore, whilst third party concerns and those of the Parish Council are noted, subject to a suitably worded condition ensuring appropriate materials are used at this location, it is considered that the proposed works would sustain the significance of the Charlesworth Conservation area, as well as the setting of the Grade-II listed buildings, which the proposed dwelling would sit in close proximity to.

The third party objection refers to an historic underground passage through the site which could be affected by the development. The site does not appear on the HER. However, in the light of these comments it is considered prudent to impose an archaeological watching brief condition.

The proposal would therefore satisfy the requirements of policy EQ7 and chapter 16 of the NPPF. The proposed external appearance and limited impact on surrounding

streetscene and vantage points are likewise considered to be acceptable in design terms and therefore to satisfy local policy EQ6 and NPPF paragraph 130.

Policy EQ2 Landscape Character notes that the Council will seek to protect, enhance and restore the landscape character of the Plan Area for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the Plan Area. By allowing for the addition of a well-designed and discreetly styled dwelling that makes good use of the topography at this location, this objective would also be served.

Overall, it is considered the siting, scale, design, and construction materials of the proposals are appropriate. Accordingly, the impact on the Conservation Area, adjacent Listed Buildings and the built up area of Charlesworth would be acceptable and the proposal thereby accords with Policies EQ3, EQ6 and EQ7 from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework.

Amenity

Paragraph 130 f) of the NPPF seeks to secure a high standard of amenity for all existing and future occupants. Local Plan Policy EQ6 requires development to achieve a satisfactory relationship to adjacent development and to not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

The proposed dwelling is well designed in terms of impact on neighbour amenity. Owing to the design of the dwelling and a change in levels across the site, the entrance to the dwelling leads to a level that would appear at first floor when viewed from neighbouring sites to the north west. The proposed arrangement proposes primary habitable room windows to the first floor rear of the property with a separation distance of 12m and 23m to the rear boundary and closest neighbouring property (no. 42 Town Lane) respectively. A first floor living room features secondary windows sited at a different angle to the first floor rear bedroom window maintaining a separation distance of 25m between the proposed property and no. 42 Town Lane. Section drawings submitted by the applicant highlight that overlooking to this neighbouring property would prove difficult owing to the significant change in levels between the application site and no. 42 Town Lane which is sited to a much lower level. In addition, boundary treatment between the two properties will remain in place to mitigate any perceived overlooking.

Additional habitable room windows will overlook neighbouring fields to the south west and as such no amenity issues are raised. At lower ground floor habitable room windows will overlook the rear garden area and adjacent fields also. The proposed dwelling maintains an appropriately sized outdoor garden for future occupiers.

It is considered that the proposed dwelling will benefit from sufficient private amenity space and that adequate amenity space will remain for Nos 44-46 Town Lane.

It is not considered that the scheme would have any significant adverse impact on residential Amenity in accordance with Policy EQ 6 from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework.

Highway Safety

Whilst the proposed development raised no objection from highways and provides off street parking provision as well as space for vehicles to turn around within the site and enter and leave in a forward gear. Following additional supporting information received highways are satisfied with the proposed access from Chapel Brow.

A space for bin storage is provided close to the entrance of the site and the application is considered acceptable in compliance with Policy CF 6 Accessibility and Transport from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework.

Whilst third party concerns regarding access and highway safety are noted, in the absence of any objection from the Highway Authority it is not considered that a refusal on these grounds could be sustained.

Landscape and Biodiversity

Additional landscaping is proposed in the form of an indicative landscaping plan the implementation of which will be required by condition. The applicant does not propose to remove any well established trees from the site however appropriately worded conditions have been attached to this permission to ensure trees to be retained on site are appropriately protected during the construction phase. The proposals comply with section 15 of the NPPF and local plan policy EQ9 in this regard.

Public comments are noted in relation to Great Crested Newts in the local area and the applicant has submitted further information to the satisfaction of the LPA that the allegation of presence of Great Crested Newts in the immediate vicinity cannot be sustained. A site visit and assessment performed by Rachel Hacking Ecology submitted to the LPA and dated 26th June 2023 in relation to nearby water bodies and newts explains that they do not recommend any further Environmental DNA Surveys and that adjacent water bodies are not suitable for grey created newts and could not support a habitat for newts. Nonetheless, a suitably worded informative has been attached to the decision notice.

In light of the above, the application can be approved in accordance with Policy EQ5 from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework.

Other Matters

Third parties raise concern about development setting a precedent. However, it is a well established planning principle that each case must be judged on it's own merits.

CONCLUSION / PLANNING BALANCE

The application proposes a new residential dwelling at this location and it is considered that the development comprises sustainable development and meets the relevant policy tests of the adopted Local Plan and NPPF which includes a neutral impact on the relevant designated heritage assets.

OFFICER RECOMMENDATION : APPROVE subject to conditions

Case Officer: John Van Eker

Recommendation Date: 03/08/2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council