

DELEGATED DECISION REPORT

HPK/2023/0361
Valid 23/08/2023

LAND ADJACENT TO
67 MEADOW LANE
DOVE HOLES

CHANGE OF USE OF LAND AS
DOMESTIC USE INCIDENTAL
TO THE ENJOYMENT OF THE
DWELLINGHOUSE NO.67
MEADOW LANE, DOVE
HOLES. RETROPSECTIVE
PERMISSION FOR NEW
VEHICULAR ACCESS TO
MEADOW LANE.
(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Design and Character
- Highway Safety

DESCRIPTION OF SITE

The application site relates to a parcel of land that site adjacent to Meadow Lane, at the northern fringes of Dove Holes, and immediately north of the end gable of No.67 Meadow Lane; an end of terrace two storey stone property, which has a finished floor level that sits below that of the land subject of this application.

The site has been the subject of a previous application for extensions and alterations that would be situated within this land, which having regard to relevant planning case law, and as a matter of “fact and degree” has been judged to fall outside of the domestic curtilage, which was considered to be confined to the end gable walls, and the small contained yard area to the rear.

The land lies within partly within the built-up area boundary and partly within the open countryside.

PROPOSAL

In response to advice provided by Officers in connection with a previously withdrawn application for extensions and alterations to No.67 Meadow Lane, the applicant is seeking the proposed change of use of the land as shown on the accompanying plans as that for domestic use that is incidental to the enjoyment of the main dwellinghouse No.67 Meadow Lane.

Thea description of development has been amended with the agreement of the applicant due to the reference to proposed use of land as curtilage, which is not a land use and therefore not a valid description of development.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

S1 Sustainable Development Principles
S1a Presumption in Favour of Sustainable Development
EQ3 Rural Development
EQ6 Design and Place Making
CF6 Accessibility and Transport

National Planning Policy Framework 2023

Achieving Sustainable Development	Chapter 2
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2022/0455	Two storey gable end extension and single storey mono pitched rear extension (Withdrawn)
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CONSULTATIONS

Publicity

Site Notice expiry date: 9th October 2023
Neighbour consultation period ends: 25th September 2023
Neighbour re-consultation period ends: 31st October 2023
Press Advert: N/A

Public Comments

None

Town / Parish Comments

No comments received

Derbyshire County Council Highways

Initial Comments

There are no highways objections to the land in question being used as domestic land; however, the application site is served by an existing access on to Meadow Lane and there is evidence that a garage or storage building has been in place on the land in question.

The application does not propose any alterations to the access; however, it is possible that the access may be utilised by the applicant to gain access to a parking area, as has been the case in previous years. It is not clear if this is the intention of the applicant or whether the land will be solely used as a garden.

As the applicant controls land on both sides of the access, it is recommended that a condition be included in any consent to maintain visibility from the access.

Advice sought from Officers in relation to whether such a condition can be enforced.

Further Comments

Further to previous correspondence in relation to this application, the following is the formal highway authority response and recommendation to the application.

The application proposes the change of use of land adjacent to 67 Meadow Lane to domestic curtilage. The application site has an existing vehicular access to Meadow Lane which has previously been used to access a garage and parking space(s) and possibly for agricultural purposes; evidence is available which shows vehicular activity has taken place at the access in previous years.

It is noted that the site access has been widened and formalised, although the works carried out at the access are not part of this application. Whilst accepting that the access works are unauthorised, they are considered to be an improvement over the former access in terms of access width and the setting back of the gates which provide a greater space for a vehicle to wait off the public highway to open and close the gates. The works to the access also enable a vehicle to exit the access at a less acute angle to that previously which has the benefit of improving the ability of a driver to assess oncoming vehicles and other highway users.

The access does suffer somewhat from restricted visibility especially in the northerly direction; however, considering that the application proposes no development which would intensify the use of the access over that which is already permitted i.e. to serve off road parking provision and/or for agricultural purposes, it is considered that there are no grounds for a highway related objection which could be sustained.

OFFICER COMMENTS

Principle of Development

The application seeks to change the use of a small parcel of land north of the existing dwellinghouse to that which is incidental to the enjoyment of the dwellinghouse.

The land is partially contained within the defined settlement boundary of Dove Holes with a small parcel furthest west of the public highway being located outside of the settlement boundary in the open countryside. Whilst within the built up area boundary there is a general presumption in favour of new development, outside this area the application is subject to LP Policy EQ3 which refers to rural development proposals which lie outside of the defined built-up area boundaries and seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness.

The principle of development is thus supported provided that there is no adverse impact on landscape character and subject to consideration of all other relevant material planning considerations.

Design & Character

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

Paragraph 130 of the NPPF states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

The supporting documentation submitted with the application shows historic Google Street View images dating from 2009, 2011 and 2016 showing the presence of a modest single storey garage/shed, accessed via a gated access, characterised by overgrown grassland. The garage has been shown to be removed at some point after 2016 with a degree of hard surfacing and widened access being installed within the past 2 years.

No planning history exists for the widening of this access to what is a classified highway, and as such, constitutes unlawful development. This point is explored further within the Highway Safety section.

No new physical structures are proposed as part of this change of use. In order to preserve the open character of this visually prominent site at the urban-rural fringe, it is recommended that a condition be applied that removes permitted development rights for outbuildings under Schedule 2, Part 1, Class E of the GPDO.

Subject to this condition, the only other (temporary) structures would be domestic paraphernalia which would be incidental to the enjoyment of the dwellinghouse, and would not adversely affect the immediate or wider rural landscape of the open countryside. The land is well contained due to the presence of steep banking at its borders meaning that there would be no visible intrusion into the open countryside.

As such, the application is considered to align with LP Policies S1, EQ3 and EQ6 and relevant paragraphs under Chapter 12 of the NPPF.

Amenity

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Given the specific location of the parcel of land subject of this application, and its relationship with neighbouring properties, it is not considered that the use of this land for purposes incidental to the enjoyment of the dwellinghouse No.67 Meadow Lane (i.e. sitting, playing, growing plants etc.) would give rise to any harm to the amenity of neighbouring residential properties, and as such the application is consistent with LP Policy EQ6 and paragraph 130 of the NPPF.

Highway Safety

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network.

Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users.

The land in question benefits from an access that has been recently upgraded from an agricultural style gated access to a widened vehicular access characterised by hard standing, which has the potential to accommodate off-street parking provision.

This access is considered to amount to a new vehicular access that, owing to the fact that this relates to a classified road, requires planning permission, and as such is currently unlawful. The applicant was advised of the above, and agreed to an amendment to the description of development to include retrospective permission for this new access.

The area of land does allow for vehicles to turn and exit the site in a forward gear although the exit visibility in a northerly direction is poor/substandard. However, in light of the further comments from the Highways Authority, it is considered that there

are no reasonable or sustainable grounds for refusal and therefore it is accepted that there is no conflict with LP Policy CF6 and relevant paragraphs under Chapter 9 of the NPPF.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- 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.

The application (as per the amended description) seeks permission to change the use of a small parcel of land north of the existing dwellinghouse for use that is incidental to the enjoyment of the existing dwellinghouse, and retrospective permission for the newly created vehicular access constructed at some point in the last 3 years, without the required planning permission.

A review of the application has concluded that the use of the land incidental to the existing dwellinghouse is appropriate given its containment predominantly within the built-up area boundary and that there would not be any visible encroachment into the open countryside, due to the presence of a steep bank beyond, and is acceptable in design and landscape terms subject to a condition removing permitted developments for domestic outbuildings.

In light of further Highways Authority comments, it is concluded that the proposed access, whilst being substandard with regards to exit visibility, does not amount to any degree of conflict with LP Policy CF6 and relevant paragraphs under Chapter 9 of the NPPF that warrants a credible reason for refusal.

As such, the application in its revised form is considered to amount to a sustainable form of development, and in line with LP Policy S1a and paragraph 11 of the NPPF is recommended for approval subject to appropriate conditions.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 1st November 2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council