

# Planning Committee 2023

<b>APPLICATION NUMBER</b>		24/00607/FUL	
<b>SITE ADDRESS:</b>		Land North Of Ember Lane Bonsall Derbyshire	
<b>DESCRIPTION OF DEVELOPMENT</b>		Erection of 1no. dwellinghouse with associated works	
<b>CASE OFFICER</b>	Chelsea Johnston	<b>APPLICANT</b>	Mr Phil Boam
<b>PARISH/TOWN</b>	Bonsall	<b>AGENT</b>	Mrs Anna Manning Manning Holden Architects Limited
<b>WARD MEMBER(S)</b>	Cllr Mathew Buckler	<b>DETERMINATION TARGET</b>	12.09.2024 EOT Agreed until 11.10.2024
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Number of objections received exceeds Delegated threshold.	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	For Members to appreciate the site and context.

## MATERIAL PLANNING ISSUES

- Whether the development is acceptable in principle
- Impact on the character and appearance of the Conservation Area
- Impact upon residential amenity
- Impact upon highway safety

## RECOMMENDATION

That the application be refused for the reasons set out in Section 8.0 of the report.

## 1. THE SITE AND SURROUNDINGS

- 1.1 The application site is located within Bonsall Conservation Area and is accessed via an existing track off Church Street which rises upwards towards the surrounding open fields. Bonsall is a predominantly linear village, whose topography has been shaped by the Bonsall Brook, nestles between rising limestone hills.
- 1.2 The site itself is an irregular shape and measures approx. 0.04 ha. The plot is set back from the road and is located between no. 31 and no.33 Church Street and comprises mainly scrubland. Open fields bound the northern and western boundary of the site with dwellings along Church Street to the south. A traditional dry stone wall separates the site from the open to the north and west. A small red brick outbuilding is located along the western boundary.
- 1.3 In terms of the surrounding landscape, the site is set back from Church Steet, a main thoroughfare through the village, and is partly within the open land that surrounds the existing built development. These fields are important to the characteristics of the Conservation Area, as noted by the Conservation Area boundary review in 1991, in which the boundary was extended to include these fields.
- 1.4 A Public Right of Way (Bonsall Footpath 50) runs through the development site.





## **2. DETAILS OF THE APPLICATION**

- 2.1 Full planning permission is sought for the erection of a dwelling, along with associated vehicular access, landscaping and all associated site works. The development would require the removal of the existing dry-stone wall which currently denotes the field boundary.
- 2.2 The proposed 2 storey 3 bed dwelling would be of a modern design constructed in standing seam metal cladding and coursed stone. The ground floor consists of 3 bedrooms and associated bathrooms with the first floor comprising open plan living accommodation and a further bathroom.
- 2.3 Two parking spaces and a small garden area is proposed to the rear of no.33 and no 33 Church Street, with a further small garden area proposed directly north of the dwelling. This garden area encapsulates an area of the existing agricultural field and is accessed via steps down from the first floor living accommodation. A new boundary fence is proposed.
- 2.4 The planning application is accompanied by the following information:
  - Proposed Elevations – Manning Holding Architects
  - Proposed Site Plan – Manning Holding Architects
  - Design and Access Statement comprising existing plan, floor plans and 3D Views – Manning Holding Architects
- 2.5 An amended proposed site was received by the LPA on 02.08.24 to address concerns raised by Peak and Northern Footpaths Society.

## **3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

### **3.1 Adopted Derbyshire Dales Local Plan 2017**

S1 Sustainable Development Principles  
S2 Settlement Hierarchy  
S4 Development within the Countryside  
PD1 Design and Place Making  
PD2 Protecting the Historic Environment  
PD3 Biodiversity and the Natural Environment  
PD4 Green Infrastructure  
PD5 Landscape Character  
PD6 Trees, Hedgerows and Woodlands  
PD7 Climate Change  
HC19 Accessibility and Transport  
HC21 Car Parking Standards

### **3.2 The National Planning Policy Framework**

### **3.3 National Planning Practice Guide**

## **4.0 RELEVANT PLANNING HISTORY:**

None

## **5.0 CONSULTATION RESPONSES**

Town Council

### **5.1 Object to the proposed development**

It is noted that the applicant has not sought pre-application advice. This is surprising considering the planned building is of modern design with metal cladding and extremely close to older properties in a conservation area. Limited detail has been submitted and the Parish Council is not in a position to support both the design and application without further information or considered arguments

There is no indication of the elevation of the dwelling and its relation to other dwellings nearby and limited information of design of the building and materials to be used and their relationship to neighbouring properties

The applicant has stated that this is not agricultural land and will not affect surface water runoff. Boundaries and land designation needs to be determined and these statements are questionable.

There is little detail as to how the public right of way will be maintained particularly in relation to levels, boundary walls, proximity to the new dwelling and manoeuvring of vehicles over the footpath.

Public representations have been made which raise a number of fundamental issues and in particular question the feasibility of both the application and its design in respect to the site, its boundaries, access, levels and dimensions. We have noted these issues but will not repeat them.

The plans are not fully dimensioned and the plans do not determine how both cars can turn around and park, again the position of the footpath is relevant. Questions have been raised over vehicle access to Church St and there are also questions over vehicle access for larger vehicles.

### Public Rights of Way

- 5.2 It is I can confirm that Bonsall Public Footpath No. 50 runs through the proposed development site, as shown on the attached plan. As can be seen on the proposed layout plans, the proposed fencing will obstruct the line of the path. I must therefore object to the proposals. Amendments will need to be made to the plans, to accommodate the path, as it is an offence to obstruct a Public Right of Way. If a gate is required for stock control purposes, then an application for authorising can be made to Derbyshire County Council Public Rights of Way. Otherwise, a minimum 1.1 metre gap must be left on the legal line of the path, as shown on the attached plan

I should be grateful if you would advise the applicant as follows: -

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorising 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(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

### Ramblers Derbyshire Dales Group

- 5.3 Ramblers Derbyshire Dales Group submits a holding objection:

- i) Bonsall Footpath 50 runs along the access track, which is between the proposed dwelling and the car parking space/garden
- ii) There is no mention of this Right of Way Footpath in the plans nor D&AS
- iii) A new estate rail fence is proposed, with no mention of a necessary gate for pedestrians and walkers. DCC PRow's permission would be needed for any new fencing or obstruction
- iii) Bonsall Footpath 50 should remain unaffected at all times, including the path surface, both during and after any development
- iv) Consideration should be given to the safety of members of the public using the Right of Way both during and after the proposed works
- v) There should be no encroachment of the path. The DCC Rights of Way Team should be asked for advice over the above RoW matters

#### Peak & Northern Footpaths Society

- 5.4 The application appears to totally ignore the presence of Bonsall Footpath 50. If this is wrong, then please ensure that the applicant provides a plan of the legal location of the footpath in relation to the proposed new house. Meanwhile I must object to the application.

#### DCC Highways

- 5.5 It is noted that Public Right of Way – Footpath no.50 is affected by the development proposal where there is harm to the interests of public walkers resulting from the proposal. In this regard the applicant must adhere to the comments made by the Public Rights of Way (PRow) officer - Derbyshire County Council. In short amendments are necessary to the scheme proposal that are subject to compliance with PRow requirements. The applicant/agent must be made aware of these.

There are no objections to the proposed development from a traffic and highway safety point of view. Please append the following informative to any consent for the applicant's attention:

Informative:

- 1.The footpath must remain open, unobstructed and on its legal alignment.
- 2.There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section at DCC.
- 3.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.
- 4.There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section - DCC.

#### DDDC Design and Conservation Officer

- 5.6 I have no objections to this application in principle. However, I would like to see plans for the foul waste once decided. I would also recommend that standard hours of operation are applied as a condition to this application as it is in close proximity to existing dwellings:

#### *Heritage Assets*

The application site lies within the Bonsall Conservation Area. The closest listed building lies to the south of the application site: Parish Church of St James, Grade II\*, List Entry Number 1263911. As the application site can be deemed to lie within the setting of a Grade II\* listed building, Historic England must be consulted.

## *Observations*

Church Street is quite a tightly constrained thoroughfare. The historic pattern of development is typically buildings fronting the highway. No. 31 is located on a track off Church Street, and its principal elevation faces south. It contributes positively to the character and appearance of the Conservation Area through its vernacular form and materials. There are glimpsed and open views of the wider countryside setting, particularly, as in this case, where the land rises up and away from the settlement. The historic core is nestled in the lower parts.

The proposed development will result in less than substantial harm to the significance of the Conservation Area. It does not offer to preserve or enhance the Area. Its location away from the historic position of development, its size and materials, are not in keeping with the character of the Conservation Area. It would disrupt views out of the Area to the wider countryside. I can ascertain no heritage benefit to this proposal.

Therefore, I object in principle to the proposed development.

## **6.0 REPRESENTATIONS RECEIVED**

6.1 A number of representations have been received to date and are summarised below.

### *Design and Materials*

- References to 'coursed stone' have resulted in building using artificial gritstone which are totally out of character in a limestone village. All stone parts of the development should be in course limestone to reflect the use of local materials in the past.
- Proposed boundary fence not in keeping with surrounding drystone walls which form all the surrounding property boundaries
- Construction of materials are inappropriate in conservation area – no other properties have "standing seam metal cladding" for upper walls and roof.
- Not clear from plans where the natural slate tiles will be used
- Use of unsympathetic construction materials
- No cross sections have been providing showing relationship with adjoining property

### *Highways and Pedestrian Safety*

- Difficulty of entering and leaving the site must be a consideration as egress from the site onto Church Street is blind.
- Church street is a busy, single-track lane with numerous vehicles parked on it.
- Provision of 2 car parking spaces for a 3 bed dwelling is inadequate.
- The proposed drive to/from the property would be unsafe for pedestrians because it opens directly onto the end of a walled footpath which is used daily, including by parents and children coming to/from Bonsall primary school. The proposed drive - the current track - also slopes steeply and is 'blind', i.e. there is insufficient visibility as it opens on to the end of the footpath.
- No information provided in relation to the safety of pedestrians using public footpath 50 during the construction of development.

### *Other Matters*

- The existing area is a good area for wildlife – owls and woodpeckers are in the woods above, buzzards overhead and deer come into the field. The natural corridor for animals such as hedgehogs could be along the existing track. The proposed development could be a barrier to frog and toad routes to ponds in nearby gardens. So the proposed development would have a negative effect on biodiversity.

- We are worried about the impact on our property, which is built partly below ground, from an increase in surface water or run-off from the proposed car park or from disturbance to an existing watercourse. There might also be light and noise pollution from the car park.

## 7.0 OFFICER APPRAISAL

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission under the Act are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Derbyshire Dales Local Plan (2017).

Having regard to the above, consultation responses and representations received and the relevant provisions of the development plan and the National Planning Policy Framework (NPPF), the main issues to assess are listed below.

- Whether residential development on this site is acceptable in principle
- Impact upon the character and appearance of the Conservation Area
- Impact upon highway safety
- Impact upon the amenity of neighbouring properties

### Principle of Development

- 7.1 Bonsall is designated as a Tier 4 settlement defined as ‘Accessible Settlement with Minimal Facilities’ within Policy S2 of the Adopted Derbyshire Dales Local Plan (2017). Tier 4 settlements are identified as settlements with a very limited range of employment, services and facilities. Small villages have a low level of services and facilities and few employment opportunities. Development will therefore be limited to that needed to help maintain existing services and facilities and to meet the housing needs of the settlement. As such there is some limited scope for development within these settlements. In all cases, development should be commensurate with the scale and function of the settlement, can be accommodated through infill and consolidation of the existing built framework of the settlement or are well related to the existing pattern of development and surrounding land uses and would not lead to prominent intrusion into the countryside.
- 7.2 The District Council cannot currently demonstrate a five-year housing land supply going forward and therefore regard has to be given to Paragraph 11 of the National Planning Policy Framework (2023). This advises that in such circumstances, there is a weighted balance towards the provision of residential development subject to other material considerations. As the application site is in a settlement with no defined settlement development boundary, Policy S4 (Development in the Countryside) is relevant.
- 7.3 The As a five-year housing land supply cannot be demonstrated going forward, paragraph (i) the Policy advises in that development may be acceptable on the edge of Tier 1-3 settlements in such cases. However, as advised above, Bonsall is a less sustainable, Tier 4 settlement. Nevertheless, in accordance with Policy S2, infill development in the village would be policy compliant subject to other material considerations which are principally considered to relate to the impact of the development on the character and appearance of the area and matters of amenity.

### *The Planning Balance*

- 7.4 The Council is unable to demonstrate a 5-year housing land supply at this time. In these circumstances, Paragraph 11 of the NPPF states that the Local Planning Authority should grant planning permission for sustainable development unless:



- i. the application of policies in the NPPF that protect areas or assets of particular importance (including designated heritage assets) provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 7.5 The development would result in a visual change to the site and the development would partly lead to the intrusion into the surrounding agricultural field to the north, which is designated countryside and wholly within the Conservation Area.
- 7.6 Substantial weight is attached to the benefits of increasing the supply of housing in meeting local need. Whilst mindful of the above, the development would warrant an intrusion into the countryside and would have an adverse effect on the setting and distinctive character of the designated Conservation Area by virtue of its scale, design and materials and given the small scale of the development, the economic, social, and environmental benefits would be limited.
- 7.7 In this case, the adverse impacts of granting planning permission would, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposed scheme would not therefore be sustainable development for which the presumption in favour applies.

The effect of the proposal on the character and identity of the settlement and the local landscape

- 7.8 A key consideration in respect of this application is the impact of the development on the local landscape and character, identity and setting of the existing settlement which is a designated Conservation Area. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) advises that development will conserve and where possible enhance the natural and historic environment, including settlements within the plan area. Furthermore, Policy PD2 of the Adopted Derbyshire Dales Local Plan (2017) requires development proposals within Conservation Areas to demonstrate how they have taken account of the local distinctive character and setting of the Conservation Area
- 7.9 Policy PD5 deals specifically with landscape character and advises that development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.10 The land extending up to the ridgelines on the eastern and western sides of the village are important to the overall setting and character of the settlement. The original Conservation Area boundary was revised in 1991 to include this land around the village in order to control pressure for development outside of the existing boundary but within the built-up area, as set out within the Bonsall Conservation Area Appraisal.
- 7.11 The application site is located on the edge of the existing built-up area and extends into the undeveloped green field, on the eastern side of the village, that is important to the overall setting of the Conservation Area, as noted above. Development of this site would have a detrimental impact on the Conservation Area, particularly when viewed from the public right of right which traverses the landscape rising upland, which allows roof top views of the village to be seen. The 'mosaic' pattern of roofs of different sizes and orientations provides a further distinctive view of the village that contributes to its special character and appearance. The proposed dwelling would sit above the ridge line of those dwellings on Church Street, due to the topography, appearing overly dominant when viewed against the context of the existing roofscape of the village.

- 7.12 Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes and landscapes. Bonsall is a unique and distinctive settlement, with its layout and pattern of development determined by its topography set within a valley. In addition to its layout and pattern, the prevalent local building material is limestone with clay tiles for roofs with sandstone used for dressings and details.
- 7.13 The proposed development does not contribute positively to the local distinctiveness or character of the area. The introduction of standing steam metal cladding and coursed stone is not in keeping with the surrounding area which is dominated by cottages in limestone and clay roof tiles. Introduction of such design and materials would be incongruous and would have a detrimental impact on the character and appearance of the Conservation Area.
- 7.14 A distinctive feature of the village is the retention of the pattern of small fields and meadows with their associated dry-stone walls and ancient hedgerows. The proposed development requires the removal of the existing dry stone boundary wall which currently separates the development plan and agricultural field. Removal of such feature would further be detrimental to the Conservation Area.
- 7.15 Overall, the proposed development by virtue of its siting, design, form, scale, mass, materials fails to respond positively to the local distinctive character and setting of the Conservation Area and thus would therefore not be in accordance with policy PD1, policy PD2 and policy PD5 of Adopted Derbyshire Dales Local Plan (2017)

#### Highway Safety

- 7.16 It is noted that concerns have been raised by Local Residents regarding the highway safety implications of the proposed development.
- 7.17 The proposed access would be taken off Church Road via the existing track. The proposed development includes 2 vehicular parking spaces which is considered to be in accordance with policy HC21 of the Adopted Derbyshire Dales Local Plan (2017). The Local Highways Authority have raised no objections to the proposed development from a traffic and highway safety point of view. They do however note that Public Right of Way – Footpath no.50 is affected by the development and regard must be had to the comments made by the Public Rights of Way (PRoW) officer .
- 7.18 The proposed development is not considered to result in any adverse highway safety impacts and would provide sufficient vehicular parking. The development would be in accordance with policies S3, PD1, HC19 and HC21 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

#### Residential Amenity

- 7.19 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires development proposals to achieve a satisfactory relationship with adjacent development and 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.
- 7.20 The site is set back from Church Street located on a small plot of land between no 31 and no 33. The proposed dwelling would represent an overdevelopment of the site and would sit at a higher level than those dwellings on Church Street due to the land rising upwards.
- 7.21 The development therefore fails to maintain a satisfactory relationship with surrounding dwellings and would cause unacceptable effects by virtue of visual intrusion would have an

overbearing affect, particularly on no. 31 and 33 Church Street. The development therefore fails to comply with policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

#### Impact on Public Right of Way

- 7.22 Public Right of Way – Bonsall Footpath no.50 runs along the access track between the proposed dwelling and car parking / garden area. The Parish Council, local residents, and Statutory Consultees; Peak & Northern Footpath Society; Ramblers Derbyshire Dales Group and Public Rights of Ways have raised concern regarding the proposed development and its impact on the existing PRow.
- 7.23 The application provides limited detail as to how the PRow will be maintained particularly in relation to the proximity to the new dwelling and manoeuvring of vehicles. A revised site plan was provided by the agent in response to statutory consultee comments confirming that access to the footpath will not change and that members of the public can access the footpath via the existing track.
- 7.24 A new estate rail fence is proposed as shown on the proposed site plan but it is unclear whether the access to the PRow will remain as existing or be replaced with a new fence / gate. It is considered that the information provided is insufficient and does not provide clarity on how the PRow will remain unaffected by the proposed development.

#### Impact on trees and biodiversity

- 7.25 The development area does not form part of any internationally or nationally designated site and the site is currently scrub land.
- 7.26 Policy PD3 seeks to protect, manage and where possible enhance biodiversity by ensuring that development will not result in harm. Development will not be permitted which directly or indirectly results in significant harm to biodiversity interest unless it can be demonstrated that there is no appropriate alternative site available, statutory and regulatory requirements have been satisfied and appropriate conservation and mitigation measures are provided. Policy PD3 also encourages development to include measures to contribute to biodiversity to ensure that there is a net overall gain to biodiversity.
- 7.27 The proposed development is exempt from providing biodiversity net gain as the proposed dwelling is custom self-build. Due to the condition of the site, it is considered the proposed development would not have a negative impact on biodiversity and the natural environment. Biodiversity measures could be achieved by way of a condition thus is considered that the development complies with Policy PD3.

## **8.0 RECOMMENDATION**

That planning permission be refused for the following reasons:

1. The proposal would result in an unwarranted and incongruous form of development that would fail to preserve or enhance the character and appearance of Bonsall Conservation Area by virtue of its siting, design, form, scale, mass and materials. It is considered that the proposal would result in less than substantial harm that would not be outweighed by public benefits to be derived from the provision of a single dwelling to seek to address the District Council's inability to demonstrate a five year housing land supply, as such, the proposals are contrary to the aims of Policies S1, S4, PD1, PD2, and PD5 of the Adopted Derbyshire Dales Local Plan (2017) and government guidance contained in the National Planning Policy Framework.

2. The development fails to maintain a satisfactory relationship with surrounding dwellings and would cause an unacceptable impact by virtue of its scale, siting and form, which would result in an overbearing effect on no. 31 and 33 Church Street thus fails to comply with policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

## **9.0 NOTES TO APPLICANT:**

1. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.
2. The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.