

TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL

STATEMENT FOR THE APPELLANT

APPELLANT: Ms E Clarke

APPEAL SITE: 15 Hill View House, Sheepy Road, Twycross, CV9 3PQ

LPA REFERENCE: 24/00529/FUL

REASON FOR APPEAL: Refusal of planning permission for the formation of a new access and parking area

December 2024

GHMPLANNING

87 Park Road, Beeston, Nottingham, NG9 4DE

joe@ghmplanning.co.uk

07447 089990

1.0 Introduction

1.1 This statement outlines the appellant's case in relation to the refusal of planning application 24/00529/FUL for the formation of a new access and parking area.

1.2 The application was refused on the following grounds:

01

The development fails to complement or enhance the rural character of the surrounding area as a result of its design, location and urbanising effect. As a result, the proposal is considered to be in conflict with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 12 of the National Planning Policy Framework (2023).

02

As a result of its design, location and urbanising effect the proposal is considered to have an adverse impact upon the verdant and rural character and appearance of the southern approach to the Twycross Conservation Area and the section of Sheepy Road contained within its boundaries, thus causing harm to its significance. The level of harm is considered to be less than substantial in terms of the NPPF and is not outweighed by public benefits and as such the proposal is in conflict with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 16 of the National Planning Policy Framework (2023).

2.0 The Appeal Site and Surroundings

2.1 The site comprises a rectangular parcel of land that fronts onto the highway on Flax Lane and runs along the highway to the west, Sheepy Road. The site is located at the edge of the settlement boundary of Twycross and accommodates a detached dwelling with an existing access from Flax Lane. A large garden is to the rear. The site has a mature hedgerow running along Sheepy Road.

3.0 The Proposal

3.1 The proposal comprises the formation of a new access and parking area, including associated hardstanding and the removal of a small section of hedgerow on Sheepy Road. The access and parking area would serve the host dwelling. Current parking off Flax Lane is limited with access issues at the junction with Sheepy Road especially during busy school drop off and collection times.

4.0 Site History

4.1 23/00130/HOU Two-storey rear extension, single storey rear and side extension and conversion of existing garage to living accommodation – Approved.

5.0 Planning Policies

- 5.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, an application for planning permission should be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The Development Plan for this area comprises the adopted Core Strategy 2009 and the Site Allocations and Development Management Policies DPD 2016. Relevant policies are listed below:

Core Strategy

Policy 12: Rural Villages

Site Allocations and Development Management DPD

Policy DM1: Presumption in Favour of Sustainable Development

Policy DM10: Development and Design

Policy DM11: Protecting and Enhancing the Historic Environment

Policy DM12: Heritage Assets

Policy DM17: Highways and Transportation

Policy DM18: Vehicle Parking Standards

- 5.2 The Good Design Guide is also relevant.
- 5.3 The NPPF makes clear that applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise, and in this respect the NPPF is a material consideration in planning decisions.
- 5.4 At the heart of the NPPF is a presumption in favour of sustainable development. There are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives. These are an economic objective, a social objective and an environmental objective. The economic objective seeks to ensure sufficient land of the right types is available in the right places at the right time to support growth. The social objective seeks to support strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of the present and future generations and by fostering a well-designed and safe built environment. The environmental objective seeks to contribute to protecting and enhancing our natural, built and historic environment, including making effective use of land.
- 5.5 So that sustainable development is pursued in a positive way, at the heart of the Framework is a 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.

- 5.6 At paragraph 47 of the NPPF it states planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
- 5.7 Section 12 seeks to achieve well-designed places. It states the creation of high-quality buildings is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live. Planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place using streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. It also states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.8 Section 15 relates to conserving and enhancing the natural environment. Paragraphs 186 to 188 set out the approach to determining planning applications where there are habitats and biodiversity issues.
- 5.9 Section 16 states heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 200 states in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 203 states local planning authorities should consider the desirability of sustaining and enhancing the significance of heritage assets and putting them to a viable use consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.10 Paragraph 205 states 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; this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 206 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Paragraph 207 states where a proposal would lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 5.11 Paragraph 208 states where a development will lead to less than substantial

harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 5.12 Paragraph 213 states not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 207 or less than substantial harm under paragraph 208, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.
- 5.13 The Planning (Listed Buildings and Conservation Areas) Act 1990 states at section 66 in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.14 The Planning (Listed Buildings and Conservation Areas) Act 1990 states at section 72 that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

6.0 The Appellant's Case

- 6.1 The proposed development is on a parcel of land to the south of the garden serving the host dwelling. The western boundary of the garden comprises a dense length of hedgerow, with occasional hedgerow trees, which runs along the full length of the garden flanking the highway verge and Sheepy Road. This dense length of hedgerow continues along the highway verge and forms the western boundary to the field to the south of the site. This vegetation screens views of 15 Sheepy Road when approaching the village, with the dwelling not being visible until nearing the junction with Flax Lane. The hedgerow provides a sense of enclosure and a rural character and appearance on the approach to and within the Twycross conservation area.
- 6.2 The proposed vehicular access to the parking area would comprise the removal of a short length of the hedgerow, 6.78 metres, together with the cutting back of the flanking sections of hedgerow to provide visibility splays.
- 6.3 The amount of hedging removed would however be limited and would represent a small proportion of the overall hedge. Hedging would remain to the north of the access along the highway and hedging would be retained to the south of the access and along the southern border. As such, the visual impact of the proposed access would be limited to a localised impact. However, the general rural and verdant character and appearance of the site and the approach into the village would remain.
- 6.4 The current hedging provides a strong sense of enclosure despite other existing access points such as the access on the other side of the highway. The Google Street View image below illustrates the approach into the village. The existing wide vehicular access is on the left; however, it is barely visible and does not

adversely affect the sense of enclosure or the rural approach. This demonstrates that occasional access points, which characterise this part of the conservation area, are not visually dominant or harmful.



- 6.5 Furthermore, in assessing the proposal, the Council stated “In terms of the wider character of the area, the hedgerow helps create a quick transition from the built-up form of Twycross and that of the surrounding countryside and vice versa on entry to the village. This is aided by the maturity of the hedge and its continuation to the field hedges beyond it. It is noted that there is an existing access opposite the site and the tennis courts for Twycross House School which do add some urbanising form to the western side of Sheepy Road”.
- 6.6 On this basis, although the predominant character is of a leafy and rural approach, part of the character is also of occasional access points which break up the sense of enclosure, albeit to a limited extent.
- 6.7 The proposed access would retain hedging to its southern boundary and to each side of the access together with further, additional planting within the site. This would ensure that the general rural, landscaped approach into the village would be maintained and the harm to the character and appearance of the site and surroundings would be limited.
- 6.8 Within the site there would be a limited area of hard surfacing for the access and car parking area together with the presence of parked cars. This would also have a visual impact; however, again it would be localised and limited. The retained landscaping would prevent clear views into the site other than directly opposite the access point, the additional landscaping within the site would strengthen the rural appearance within the site.
- 6.9 Furthermore, there are options for the materials for hard surfacing to reduce the visual impact with a drive on grass system or a resin driveway which would further reduce the visual impact. A suitably worded condition to control the hard surface material would be acceptable.
- 6.10 The land levels drop from the village and as a result the site is not prominent or visually dominant on the approach into the village. The site also forms part of the garden serving the dwelling and therefore already has a more domestic character and appearance compared to the wider rural environment.
- 6.11 It is also noted that in the Officer Report assessing the proposal the Council stated “Given the relatively limited extent of the loss of hedgerow when

considered its length as a whole, and that the urbanising effect would be most noticeable when in the immediate vicinity of the site only, it is considered that the visual effects of the proposal are relatively minor”.

6.12 This assessment is agreed with and overall the proposal would have limited visual impact on the rural character and appearance of the site and surroundings.

6.13 The site falls within the conservation area as illustrated below:



6.14 The conservation area appraisal identifies the host dwelling as an important building within the designation.

6.15 Part of the significance of the conservation area is derived from its setting with countryside to the south and views of the settlement limited by the landscaping on the approach from the south. This includes the hedges and trees that form part of the boundary to the host property.

6.16 It is acknowledged that there would be a visual impact on the rural character and appearance of the southern approach to the village. However, in the view of the appellant this would be limited. Furthermore, the Council acknowledged this would be “less than substantial in terms of the NPPF and....the impact is considered to be towards the lower end of this spectrum of harm”.

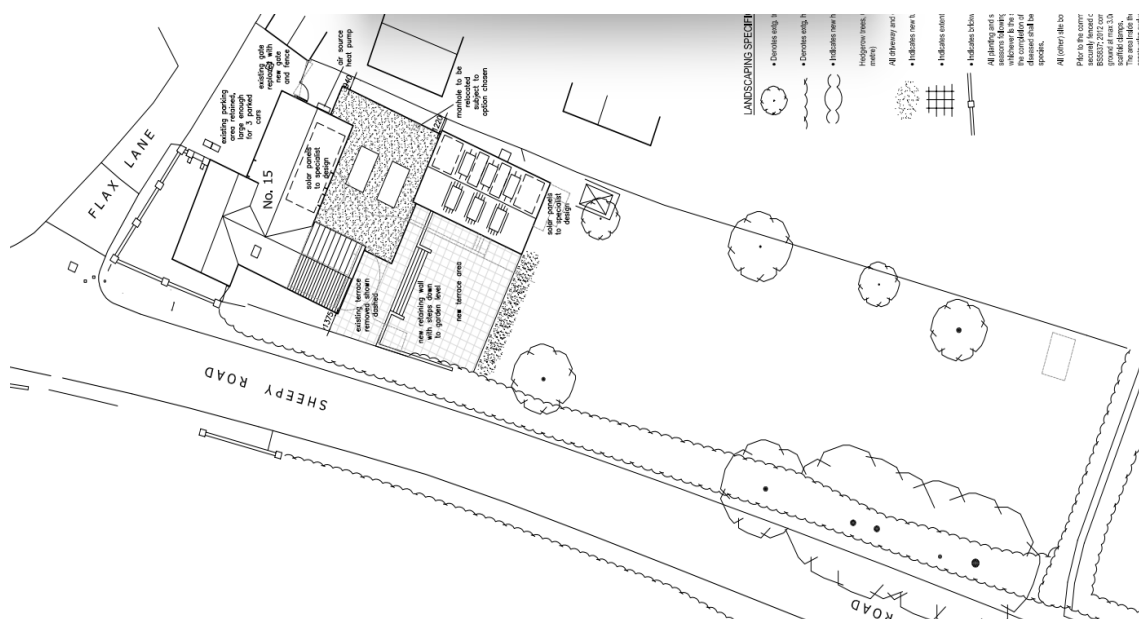
6.17 The Google Street View of the site, looking from the village, demonstrates the limited visual impact the proposal would have from this part of the conservation area. The defined rural, landscaping setting is undermined by the existing, occasional, access points and the tennis court site. Overall, it is considered that the proposal would have a minimal impact on the character and appearance of the conservation area.



- 6.18 There would however be public benefit to the proposals through a highway safety gain. Especially around school drop off and collection times there is a high number of vehicles parked on the main road around Flax Lane. This obstructs the free flow of vehicles causing vehicles to access the other side of the carriageway. It also causes vehicles to stop by Flax Lane to await a clear overtaking opportunity; this blocks access into and out of Flax Lane. Parking also takes place which blocks access to the applicants driveway. On occasions parking takes place using the appellants parking spaces. Overall, this results in potential highway dangers including through limited visibility on leaving Flax Lane with parked vehicles obscuring clear views.
- 6.19 Paragraph 208 states where a development will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. In this case, the level of harm has been identified at the lower end of less than substantial. The proposal would provide additional parking for the host dwelling but importantly would separate the parking from the Flax Lane junction; thereby reducing the amount of traffic using that junction and removing potential highway safety issues during the busy school periods. With fewer vehicles leaving Flax Lane during these regular periods where visibility is limited, there would be a highway safety gain.
- 6.20 Therefore, public benefit has been identified which is considered to outweigh the limited harm identified. The harm would be limited to a small access point leading to an area of hardstanding. The loss of hedgerow would represent a minor amount given the overall length of hedgerow on the approach into the village and the general character and appearance would be maintained. The visual impact of the access would be localised to the access point itself with the hardstanding within the site, subject to materials, having no harmful impact on the designation. This level of harm would be at the lower end of the scale and would be outweighed by the public benefit of the enhanced highway safety offsetting the minor harm to the conservation area.
- 6.21 The Council states that the access would appear visually divorced from the dwelling it serves by virtue of the intervening distance to the dwelling. However, the proposed parking area would be located at the southern end of the existing garden and the hardstanding and parked cars would not be clearly visible from outside the site due to the landscaping. The development would be read as an

access and a small area of hardstanding clearly associated with the host dwelling.

- 6.22 The appellant is of the view that the proposal would not be visually divorced from the host dwelling, being located within the garden and would also not be visually prominent or dominant, forming an area of hardstanding within a garden.
- 6.23 In terms of further justification for the position of the proposed access, the access has been proposed at this location so that it would not impede on the recent extensions that were approved to the dwelling under application 23/00130/HOU. This extant permission not only extended the dwelling significantly to the rear but also incorporated a new terrace area. This would materially reduce the distance between the enlarged dwelling and the proposed parking and access, thereby reducing the case of the Council who state the proposal would be visually divorced from the dwelling. Below is the approved Block Plan from application 23/00130/HOU.



- 6.24 Based on the above approved Block Plan, an access closer to the dwelling would have an adverse effect on the enjoyment of the extension and external terrace.
- 6.25 It is also noted that the Highway Authority raised no objection to the proposed access and parking on highway safety grounds. There are issues with the level changes between the main road and to the part of the garden closer to the dwelling where the Council sought to relocate the access. These changes in levels do not exist to the same problematic extent at the bottom end of the garden.
- 6.26 It is also relevant that should the access be relocated closer to the dwelling; this would not resolve the issue of the current access which is problematic due to the parked cars during the school drop and collecting times. Cars park along the stretch of road closer to the dwelling and as such an access at that location would not resolve the access issues or the harmful impact on highway safety.

- 6.27 The Council has identified less than substantial harm through the removal of part of the hedge for the access. However, the Council also stated a preference for the access to be relocated closer to the dwelling. This would result in removal of a larger part of the hedge and also would likely involve the removal of the monkey puzzle tree. It is considered that such an option would be more harmful in heritage and visual terms compared to the proposed scheme.

7.0 Conclusion

- 7.1 For the reasons set out above, it is considered that the proposals are acceptable. The proposals would have a limited visual impact on the rural character and appearance of the site through the small-scale nature of the proposals and the retained and additional landscaping. It would reflect the existing character and appearance with occasional access points within a landscaped framework.
- 7.2 Furthermore, regarding the conservation area, the impact of the proposals would be at the lower end of the less than substantial harm scale with the public benefit of the enhancement of highway safety outweighing the limited level of harm. This part of the conservation area is partly characterised by access points punctuating the hedgerow along the highway.
- 7.3 The proposal is deemed to meet local and national planning policies with no harm identified and it is respectfully requested that the appeal is allowed.