

13. FULL APPLICATION - DEPOSIT OF SOIL TO IMPROVE VEHICLE TURNING AT SWALLOW COTTAGE, PILHOUGH ROAD, ROWSLEY (NP/DDD/1215/1168 P.10620 424893/364905 29/03/2016/LB)

APPLICANT: MR W MITCHELL

Site and Surroundings

Swallow Cottage and Swallow's End are two dwelling houses situated in a prominent hillside location in open countryside at Pilhough, 1.2 km south of Rowsley. The dwellings are set in a large domestic curtilage and accessed via a driveway from Pilhough Lane which leads to Stanton. The application site is at the entrance of this driveway where a steel frame has been erected on the southern side of the access drive at the entrance, approximately 30 metres from the dwellings. Planning permission was granted in 2012 for alterations and an extension to an existing garage adjacent the application site, to provide garaging for Swallows Cottage and Swallows End.

Excavation works into the bank side to accommodate the approved garage have taken place on the application site but the original garage was completely demolished despite permission being granted for an extension to the existing garage building on site. The steel framework that has been erected was for a larger garage than that approved and is currently subject of an active enforcement case. Spoil from the excavation works has been tipped on the adjacent sloping field opposite the garage site and this is also subject of an active enforcement case and the subject of this planning application. The dimensions of this embankment formed by deposited soil from the excavation works for the previously approved garage are approximately 7 metres x 14 metres at present.

Proposal

The current application seeks partially retrospective planning permission for retention of the spoil that has been banked up on the application site but includes plans showing re-modelling of the existing embankment in the field by re-profiling the contours in an attempt to create a more natural looking feature in the landscape. Information submitted with the application indicates this would be achieved by material from and around the top of the embankment being relocated at its base to reduce the steep profile to approximately 30 degrees and soften the shape. The newly formed embankment will be seeded with grass and will be maintained as part of the field and used for agricultural purposes.

The proposed development has been described in the current application as the deposit of soil to improve vehicle turning. However, the embankment lies outside the clearly defined curtilage of the host properties, Swallow Cottage and Swallow's End, and the submitted plans do not indicate that vehicles would be able to access the top of the embankment. Furthermore, the applicant's agent has confirmed that the application is solely for operational development (i.e. the creation of the embankment) rather than any change of use of the land and no further details have been submitted that indicates the retention of the embankment is required to stabilise the existing access track and associated turning areas at the entrance to Pilhough Road.

RECOMMENDATION:

That the application is **REFUSED** for the following reasons:

1. **By virtue of the size, form, scale and massing of the remodelled embankment, its retention would be a physical and harmful incursion into an area of open countryside and it would be a visually intrusive development that would neither reflect nor respect the character of its landscape setting and would detract from the surrounding special qualities of the surrounding landscape that contribute positively to the National Park's scenic beauty.**
2. **Consequently, the proposals would have a significant adverse visual impact on the character of the landscape setting of the application site and the scenic beauty of the National Park contrary to policies GSP1, GSP2, GSP3 and L1 in the Authority's Core Strategy, contrary to saved Local Plan policy LC4, and contrary to the landscape conservation objectives set out in national planning policies in the Framework.**
3. **Furthermore, there is insufficient justification for retaining the deposit of soil or the creation of the embankment taking into account policy Core Strategy CC3 requires appropriate off-site disposal of spoil arising from development if it cannot be re-used on-site without damaging the environmental quality of the local area. In this case, it is clear the excavation material cannot be dealt with appropriately on site and its retention has resulted in the creation of an inappropriate embankment into the field that has resulted in disposal of waste in open countryside contrary to the provisions of CC3 and contrary to the landscape conservation objectives of policies in the Development Plan and the Framework.**
4. **Therefore, granting planning permission for the current application would not achieve any significant public benefits and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of retaining the embankment, when assessed against policies in the Development Plan and the Framework when taken as a whole. Consequently, the current application is contrary to the principles of sustainable development set out in policy GSP1 of the Core Strategy and national planning policies in the Framework.**

Key Issues

- The impact of retaining and re-grading the existing embankment on the character of the surrounding landscape.

History

March 2012: NP/DDD/0212/0156: Planning consent was approved conditionally for the extension and alteration of an existing garage on the southern side of the access drive at the entrance to the site. Plans proposed an amended garage that effectively created a 6 bay garage with an 'L' shaped plan form built into the sloping bank side to the south of the site. Access would remain unaltered and there was adequate forecourt area in front of the building allowing forward access to the road.

As noted above, works commenced on site, digging out the bank side and erecting some framework but the existing garage was demolished and spoil from the excavation works was tipped into the field in front of the site forming an embankment of earth (the site for this application).

April 2014: NP/DDD/1213/1165: Planning application submitted for the creation of a vehicle turning space in the field opposite the approved garage. The existing embankment would form the area for the turning circle. The application was refused as by virtue of the proposals size, form scale and massing as the vehicle turning area would be a visually intrusive development in an open area of countryside that would detract from the surrounding special landscape qualities that contribute to the valued characteristic of the National Park.

Furthermore, it was considered to be insufficient justification for the inappropriate embankment into the adjacent field as there is sufficient parking available within the clearly defined residential cartilage of the cottage.

Consultations

County Council (Highway Authority) - No objections.

District Council – No response to date

Parish Council – Object to the proposals as the embankment alters the flow of the land creating an obtrusive feature that does not accord with the landscape character assessment. If approved, this application would also have significant harmful impact upon the character and appearance of the area and on the National Parks special landscape qualities. The Parish Council also comments that if the application is approved, conditions should be attached to provide woodland to screen the embankment.

Representations

The Authority had received one letter of objection at the date of this report. This letter refers to a previous planning application (NP/DDD/1213/1165) which sought permission to change the same spoil deposit into a turning space, that planning application was refused on the basis that its size, form, scale and massing would comprise a visually intrusive development in an area of open countryside, detracting from the surrounding special landscape qualities of the National Park, there was also insufficient justification for the inappropriate incursion into the field as there were sufficient parking facilities available within the defined residential curtilage.

The author of this letter goes on to say this latest planning application fails to address any of the previous reasons for refusal, it still seeks to extend vehicular space for which there is no requirement, there being adequate existing room for vehicle access and manoeuvring as is being demonstrated currently by large vehicles entering and exiting the location without difficulty. The letter concludes that whilst a solution is clearly required to deal with this tipped spoil, allowing any additional vehicular facilities should not be considered. Adequate screening of the area should form an essential part of any planned re profiling. This is agricultural land in a prominent position which has had building rubble and excavated spoil dumped upon it, a solution which is sympathetic to the surrounding landscape is required.

Policy Context

Policy CC3 of the Authority's Core Strategy is relevant as it normally requires waste arising from development to be used on site or if it cannot be used on site appropriately, CC3 requires spoil to be removed off-site to a licensed waste disposal site. In this case, spoil arising from the excavation works on site is considered to have a visual impact on the character of the surrounding landscape so the current proposals do not accord with the provisions of CC3. The emerging Development Plan Document does not give any further detailed guidance on these points. Therefore, a key issue in the determination of this application is whether the retention of the spoil and the re-profiled embankment would have a harmful visual impact on the character of the surrounding landscape.

In these respects, paragraph 115 of the National Planning Policy Framework ('the Framework') says that great weight should be given to conserving landscape and scenic beauty in National Parks whilst as a whole, policies in the Framework promote and encourage sustainable development in rural areas. This approach is consistent with policies in the emerging Development Plan Document and the landscape conservation objectives of Policies GSP1, GSP2, GSP3 and L1 of the Core Strategy and Local Plan policy LC4, which focus upon design and conservation and promote and encourage sustainable development that would be sensitive to the locally distinctive character of the National Park landscape.

Furthermore, Core Strategy Policy L1 also cross references the Authority's Landscape Strategy and Action Plan as it aims to conserve and enhance the National Parks valued landscape character. Although the application site does not lie in a designated Conservation Area, it does lie in an attractive pastoral landscape. To the south of the properties there are sloping pastures while an extensive belt of woodland runs on higher ground to the north which is very much in keeping with the Landscape Character Assessment for the area; Derwent Valley 'Slopes and Valleys with Woodland'. The Authority's Landscape Strategy and Action Plan says the priority for this landscape is to protect and manage its settled, agricultural character.

Assessment

Background

Prior to the submission of the current this application, planning consent was granted for the extension and alteration of an existing garage in 2012, south of the entrance to Swallow Cottage. Work took place after consent was granted for the amended garage, excavating the hillside but also demolishing the garage at the same time. Some structural steel framework was erected on the site. The excavation works into the hillside that took place, clearing the site for the garage, resulted in substantial amounts of spoil that needed to be removed off the site. Subsequently the material was tipped in the field immediately opposite the garage site forming a large mound, creating a man made embankment of earth, the height of which reaches the ground level of the driveway. The Authority has previously advised that the embankment is an unauthorised form of operational development that requires planning permission.

Subsequently a planning application was submitted to retain the embankment and to form a vehicle turning area for the garage building; the top of the embankment which is level with the driveway would be used to form the turning area extending into the field. This application was refused by virtue of the proposals size, scale, form and massing which would comprise a visually intrusive development in the countryside that would detract from the special landscape qualities of the National Park. Consequently, as the embankment is still unauthorised and in a further attempt to rectify the current situation, this application has been submitted.

The current application is different from the previous application because it proposes to retain but remodel the contours of the embankment, re-seed the earth and return it to agricultural use rather than retain it as part of an extended turning area or to include the embankment as part of the residential curtilage of either Swallow's End or Swallow Cottage. Notably, there are no details in the application suggesting that the embankment needs to be retained for structural reasons or that its retention is required to stabilise the adjacent ground. There is also no further explanation of why the spoil cannot be disposed of off-site, which is an important point because of the siting of the embankment in an open field in open countryside.

Impact

Swallow Cottage is situated in a prominent elevated position set into the steeply sloping hillside and framed to the south by established trees and woodland. In the foreground to the north east of the cottage is a small steeply sloping field, which immediately abuts the residential curtilage and joint access track which serves Swallow Cottage and the adjacent properties. The field is bound by a combination of walls and roadside hedging. The north eastern side of the joint drive

is enclosed by existing hedging apart from where this has been breached where the spoil from the excavation works have been tipped into the field; thus forming the large embankment.

The existing hedging forms a strong enclosure and visual separation between the domestic cartilage of Swallow Cottage and the steeply sloping field below. The cottage and its setting, with the steeply sloping field in the foreground and the established woodland to the rear create an attractive landscape setting which is appreciated from the public highway, below. This setting is a good example landscape character of the 'Slopes and Valleys', which is valued because of its gentle sloping fields broken up by groups of trees and woodlands, but the embankment is and would continue to be a large, obtrusive, man-made landform which does not reflect or respect the surrounding attractive pastoral landscape.

Projecting approximately 7 metres into the field at its greatest distance, the embankment is a clearly defined man-made engineering operation that intrudes into open countryside and its visual impact is further exacerbated by the steep drop in ground levels from the driveway, (ground level of the garage) and the steeply sloping field. Furthermore, the embankment does not successfully replicate the form of a more natural landform and by virtue of its steep contours and prominent elevation from the ground, the embankment is considered to dominate views of the site, and detracts from the setting of the nearby buildings.

It is not considered that re-modelling the contours to create a more gentle profile of the embankment, as proposed, would fully mitigate the appearance of the spoil disposed on the site, and would not significantly reduce the size and scale of the existing embankment. In particular, the re-profiled embankment would still be visible from public viewpoints close to the site, and in more distant views, and would be seen as a dominant and discordant feature in an otherwise attractive landscape that does not follow the existing flow of the surrounding land. Moreover, the option to provide planting around or on the embankment, as it is, or re-profiled, in an attempt to 'disguise' and 'blend' the structure into its setting is not considered to be appropriate in this case because planting on the application site would not reflect the existing pattern of hedgerow, woodland and open fields.

It is therefore concluded that retaining and remodelling the embankment would have a significant harmful impact on the character and appearance of the area and on its special landscape qualities that contribute to the valued characteristics of the National Park. Consequently, the proposals would have a significant adverse visual impact on the character of the landscape setting of the application site and the scenic beauty of the National Park contrary to the Authority's Core Strategy Policies DS1, GSP1, GSP2, GSP3 and L1 and saved Local Plan Policies LC4 and contrary to the landscape conservation objectives set out in national planning policies in the Framework.

Sustainability

Although the retention of the disposed spoil in the form of the embankment would not have any other significant impact on the environmental quality of the local area, and it would not impact on a nearby listed building or unneighbourly by virtue of its location, retention of the embankment would have a harmful impact on its landscape setting. In these circumstances, Policy CC3 of the Core Strategy is relevant because it states construction and demolition waste must be managed and re-used on site but an appropriate offsite disposal option will be required if waste cannot be used on-site without harming the environmental quality of the local area.

In these respects, granting planning permission would give rise to some private benefits for the applicant who would no longer face the cost and inconvenience of removing the spoil arising from the excavation works to a licensed waste disposal site in accordance with the provisions of CC3.

However, this would not achieve any wider public benefits given that there is no information in the submitted explanation that says any material needs to be retained on site for structural reasons or to stabilise the land. Re-profiling the embankment may slightly improve the appearance of the embankment but would not enhance its landscape setting to any reasonable extent compared to its removal.

Therefore, granting planning permission for the current application would not achieve any significant public benefits and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of retaining the embankment, when assessed against policies in the Development Plan and the Framework when taken as a whole. Consequently, the current application is contrary to the principles of sustainable development set out in policy GSP1 of the Core Strategy and national planning policies in the Framework.

Conclusions

In conclusion, the retention of the embankment in the adjacent field would spoil the established character of its landscape setting as it will have adverse visual impact, creating an incongruous landscape feature in a prominent position. Furthermore, there is no justification for retention of the embankment and the remodelling of the embankment would not adequately mitigate for the current harm created by the development as these works would still result in a manmade structure that would sit uncomfortably within the landscape, detracting from its natural surroundings and from the character of its setting.

Moreover, it is clear from the provisions of policy CC3 that the material used to form the embankment would be more appropriately dealt with by removal to an off-site licensed waste disposal site and there are no public benefits arising from the retention of the material on site. Consequently, it is considered that the proposed application to retain and re-model an existing embankment is open to strong landscape objections as the proposal would not respect, conserve or enhance the valued characteristics of the National Park and these adverse impacts of granting planning permission for the application would significantly and demonstrably outweigh the benefits of retaining the embankment.

Accordingly, the application is recommended for refusal because the proposals do not constitute sustainable development within a National Park and the application is contrary to policies CC3, GSP1, GSP2, GSP3 and L1 in the Authority's Core Strategy, saved Local Plan Policy LC4, and national planning policies in the Framework.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil