

**22/00800/FUL
NON MAJOR**

Mr Philip Hammonds

**HATHERTON
Cllr C Benton,
Cllr D Williams**

Doveleys Farm Sandy Lane Hatherton Staffordshire WS11 1RW

Retrospective application for alterations to existing vehicular access and provision of access drive off Hatton Road/Sandy Lane junction

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site description

1.1.1. The application site extends to approximately 380 sq.m. and passes through the centre of an existing field which has previously been used for equestrian purposes. The remains of the equestrian use (a menage) can last be seen on 2016 aerial photos and since that time the site has been grassed over and free from development. The new access is proposed to serve Doveley's Farmhouse, which is adjacent to the north-west.

1.1.2 The eastern-most part of the application site previously consisted of a grass verge off the highway (measuring approximately 4m in depth) beyond which was a field gate into the site. As part of this development the grass verge has been concreted and the field gate has been relocated further into the site (around 12m from the edge of highway) with new timber perimeter fencing. The new driveway extends a length of approximately 74m, joining up with the curtilage of Doveley's Farmhouse to the north-west.

1.2.3 The site is within an area of mixed use comprising residential, agricultural and equestrian sites. There are dwellinghouses directly opposite the site which fall under Cannock Chase District Council.

1.2 Planning History

1980, Erection of one detached house and garage, refused (80/00605)
1989, Residential Development 2 Dwellings, refused (89/00674)
1993, Certificate of Lawful Use for the use of land as stables and grazing, approved (93/00910)
1993, Stables and tack rooms, approved (93/00953)
1997, Field shelter for horses, approved (97/00780)
1998, Change of use of agricultural building to restoration of furniture, refused (98/00177)
1998, Use of building coloured red on the attached plan as a Class B1 Workshop, approved (98/00731)
1999, Field shelter for horses, approved (99/01161/FUL)
2005, All weather menage for horses, approved (05/00371/FUL)
2016, To confirm the residential curtilage of the dwelling house, refused (16/00977/LUE)
2018, The demolition of an existing Class B1 industrial unit, outbuildings (including stables) and the erection of an extension to an existing Class C3 residential dwelling, the erection of a two-bay garage building and the extension of residential curtilage, withdrawn (18/00584/FUL)
2019, Creation of vehicular access and erection of brick retaining walls, approved (19/00007/LUE)
2019, Detached dwelling and garage, refused (19/00358/OUT)

2021, Extensions to existing dwelling incorporating re-build of existing barn, approved (21/00904/FUL)

2. APPLICATION DETAILS

2.1 Proposal

2.1.1. This is a retrospective application for alterations to the existing vehicular access and the provision of a new hard-surfaced access drive off Hatton Road/Sandy Lane junction to serve Doveley's Farmhouse.

2.2. Agents Submission

2.2.1 The application is accompanied by a covering letter and an Access Assessment Report, key points as follows:

- There has always been a field access in this location.
- The original access to Doveley's Farm (marked as Access 1 on the drawings) is now used solely to access the stables.
- In 2013 a new access was constructed (marked as Access 2 on the drawings) adjacent to Doveley's Farmhouse which was used to serve the farmhouse. Access 2 has now been closed off due to concerns regarding visibility/highway safety concerns.
- Access 3 (the subject of this application) is now used to access the farmhouse from the Hatton Road/Sandy Lane junction.

3. POLICY CONTEXT

3.1 Within the Green Belt

3.2 Adopted Core Strategy

Policy GB1: Development in the Green Belt

Policy EQ1: Protecting, Enhancing and Expanding Natural Assets

Policy EQ9: Protecting Residential Amenity

Policy EQ11: Wider Design Considerations

Policy EQ12: Landscaping

Policy EV12 Parking Provision

3.3 National Planning Policy Framework

Chapter 13: Protecting Green Belt Land

Chapter 15: Conserving and enhancing the natural environment

3.4 National Planning Policy Guidance

3.4.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

3.4.2 The law makes a clear distinction between the question of whether something is a material consideration and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case and is ultimately a

decision for the courts. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.

4. CONSULTATION RESPONSES

Councillors (expired 12/09/22) No comments received

Parish Council (comments received 26/08/22) Hatherton Parish Council fully supports this application as it is an improvement to the original access and enhances highway safety.

County Highways Officer (comments received 08/09/22) Acceptance. This application is retrospective and therefore this recommendation of approval can only be based upon the work carried out. The location is semi-rural. There are no recorded vehicular accidents at this location in the last 5 years. An informative is required regarding a retrospective Section 184 Notice of Approval.

County Ecologist (comments received 17/10/22) The application is a retrospective application for creation of a new access drive. This means that hardstanding has increased, with the loss of a small area of pasture grassland. It is recommended that biodiversity enhancements are put in place to mitigate for this loss. Suitable improvements could include the planting of native standard trees (parkland type), or creation of a new native hedge to the side of the access track. A list of species and planting specifications is appended for information. If minded to approve, it is suggested that a condition requiring submission of landscaping plan to provide biodiversity enhancement is required.

NatureSpace Officer (expired 12/09/22) No comments received

Western Power (comments received 29/09/22) National Grid do have apparatus in this area and do have concern regarding the works. The National Grid plan shows that there is an Hv underground cable (red line) in the verge adjacent to the area in question. If ground levels are to be altered this may alter the depth of the cable. This cable should be half a metre deep. If the levels change this could cause the cable to be too shallow or too deep which is a huge safety issue for National Grid. Also HSE safe dig regulations must be followed when working in proximity to our cables.

There is also another underground Hv cable within the land in question. All of the above is relevant to this also.

There is also an H pole with two stay wires in this area which forms part of the high voltage electricity network (labelled Sandy La.). No excavation can be done within 3 metres of the poles or stay wires as this could undermine them. Also a 3 metre safety zone must be maintained from the overhead lines themselves.

We also have an Lv pole and associated conductor (Circle and Blue line labelled 2). This is a lower voltage than the red line but must still be respected by following the same rules as above.

As with any works taking place in proximity to National Grid apparatus it is best for the person carrying out the works to contact National Grid directly prior to the works taking place. This way NG can advise them how best to carry out their works as safely as possible.

Also if the works cannot be carried out safely then NG staff can best advise them on how to go about requesting a quote from NG to divert the apparatus at their cost.

Cannock Chase District Council (expired 12/09/22) No comments received

Site Notice (expired 15/09/22) No comments received

Neighbours (expired 12/09/22) No comments received

5. APPRAISAL

5.1 This application has been called into Planning Committee by Councillor Benton who makes the following comments:

- The alleged redesignation of the land either side of the access drive as part of the residential curtilage is mistaken.
- Planning permission would be required for residential use and would not be forthcoming.
- The land clearly has no current residential permitted development rights. That could be made abundantly clear by condition to avoid doubt.
- Furthermore, the land concerned (some 0.22 ha) is perfectly capable of being used as a paddock or for agricultural/horticultural purposes

5.2 Key Issues

- Principle of Development
- Impact on the character and appearance of the Area/Landscape
- Neighbour Amenity
- Ecology
- Highways

5.3 Principle of Development

5.3.1 The development is within the Green Belt where there is a presumption against development subject to a number of exceptions. As stated within paragraph 150 of the NPPF and Policy GB1 of the Core Strategy, engineering operations and material changes in the use of land can be acceptable forms of development providing that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

5.3.2. It has previously been established with a Certificate of Lawfulness (planning application reference 16/00977/LUE) that the field containing the application site has a long-established use for equestrian purposes and does not form part of the residential curtilage of Doveley's Farmhouse. However the new access road has been laid through the centre of the equestrian site (a separate planning unit from the farmhouse) to provide direct access to the dwelling via vehicle and the existing access has been blocked off.

5.3.3 It is considered that the regular and consistent use of the new access by vehicles accessing the dwellinghouse and any potential parking would result in this becoming part of the planning unit of Doveley's Farmhouse and is therefore tantamount to a material change of use of the land from equestrian to residential.

5.3.4. The application site/land in question is not physically separated from the residential curtilage and has taken on the function and appearance of serving and being incidental to the enjoyment of the dwelling. Bearing in mind also that the residential curtilage of Doveley's Farmhouse and the field containing the application are within the same ownership, it is considered that this development has served to bring the equestrian site into the same planning unit as the dwelling. And given that the new access runs the length of the site and is used regularly by the occupiers of Doveley's Farmhouse and their visitors, the restoration of any equestrian or agricultural use could prove impracticable.

5.3.5 Turning back to the wording of NPPF paragraph 150, engineering operations and material changes of use can be appropriate forms of development within the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The land around the application site is a section of Green Belt which sits on the border between South Staffs District and Cannock Chase District. There is a distinct change in character on either side of the highway (Sandy Lane/Hatton Road) with land uses to the north, south and west of the highway (within South Staffs District) of a much more mixed character and looser development pattern. In contrast, the development to the east of highway (within Cannock Chase District) consists of wholly residential uses in a consistent domestic and dense plot pattern. It is the Council's opinion that the land around the application site forms a buffer between the agricultural uses to the west and the residential uses to the east, and for that reason the change of use to residential would fail to preserve the Green Belt's function to check the unrestricted sprawl of large built-up areas and to assist in safeguarding the countryside from encroachment (NPPF paragraph 138 refers).

5.3.6 In conclusion, I consider that the extension of domestic curtilage or garden land would have an adverse visual impact, which would injure the openness of the Green Belt, by way of potential 'inappropriate development', in terms of boundary treatments, changing the character and setting of the land to a cultivated appearance, outbuildings and the proliferation of domestic cluster that is normally associated with domestic gardens. Moreover, the proposal would not constitute an appropriate form of development as defined within NPPF paragraph 150 as it would conflict with the purpose of the Green Belt to restrict sprawl and to safeguard the countryside from encroachment.

5.3.7 In line with NPPF paragraphs 147 and 148, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.4 Impact on the character and appearance of the Area/Landscape

5.4.1 Core Strategy Policy EQ11 requires that developments are of high quality and are appropriate to their locality in terms of scale, volume, massing and materials. In line with Policy EQ4, the intrinsic rural character and local distinctiveness of the landscape ought to be maintained.

5.4.2 Whilst some of the grassed verge has been concreted over to facilitate the development, there is a similar access adjacent and the low-level timber fence is appropriate for the rural location. The operational development that has been carried out is not considered to have a detrimental impact on the character of the street-scene or of the wider landscape, as such the proposal complies with Policy EQ11.

5.5 Neighbour Amenity

5.5.1 Policy EQ9 of the Core Strategy states that the amenity of neighbouring occupiers will be taken into account as part of all development proposals.

5.5.2 The closest residential properties are those on the other side of the junction of Hatton Road/Sandy Lane. These dwellings fall within Cannock Chase District however a site notice has been posted and Cannock Chase District Council have been consulted.

5.5.3 The closest dwelling to the new access, No. 69 Sandy Lane is positioned opposite the site entrance, approximately 21m away from the development. Given that there was always a field gate in this position and that the development would serve a single dwelling rather than an equestrian site, it is considered that there would be no undue harm to residential amenity.

5.6 Ecology

5.6.1 Policy EQ1 states that permission will not be granted for development which will cause significant harm to habitats of nature conservation, including hedgerows and trees, where appropriate mitigation cannot be provided.

5.6.2 The development falls within the amber impact risk zone for Great Crested Newts where there is suitable habitat and a high likelihood of great crested newt presence. The development has not necessitated the removal of any trees or vegetation. Unfortunately since the works have already been carried out there is very little that could be done at this stage to address the impact on GCN.

5.6.3 The County Ecologist has been consulted who notes that that hardstanding has increased, with the loss of a small area of pasture grassland. It is recommended that biodiversity enhancements are put in place to mitigate for this loss. Suitable improvements could include the planting of native standard trees (parkland type), or creation of a new native hedge to the side of the access track. If minded to approve, it is suggested that a condition requiring submission of landscaping plan to provide biodiversity enhancement is required. It is therefore considered that there is no conflict with the aims of Policy EQ1.

5.7 Highways

5.7.1 Policy EV12 requires appropriate provision to be made for off-road parking and consideration of highway safety. The new access road has been constructed from an existing field gate (east of the application site) which has always been in place to serve the equestrian site. The application states that the existing access into the farmhouse off Sandy Lane (north of the application site) was considered to be unsafe from a visibility point of view, hence the existing access was blocked off and the applicant now accesses the dwelling via the new access road off the Sandy Lane/Hatton Road junction.

5.7.2. The applicant has commissioned an Access Statement which accompanies the application. This assessment concludes that the previous access into the farmhouse was dangerous due to limited visibility, and that the new access provides better visibility, as such is safer from a highway safety point of view.

5.7.3. The County Highways Officer has commented that the location is semi-rural and there are no recorded vehicular accidents at this location in the last 5 years. On that basis no objections are raised on highway grounds. The applicant is, however, required to apply for a retrospective Section 184 Notice of Approval from Staffordshire County Council for the works carried out.

5.7.4. The County Highways Officer was unable to comment on the safety of the previous access into the farmhouse, as no independent highways assessment has been carried out, however they confirm that the new access is undoubtedly safer than the previous. The proposal therefore complies with Policy EV12.

6. CONCLUSIONS

6.0.1 The new vehicular access through the equestrian site into the curtilage of the dwellinghouse is considered to amount to an extension of the domestic curtilage, tantamount to a material change of use from equestrian to residential and constituting an inappropriate form of development within the Green Belt. The material change of use would erode Green Belt openness by the proliferation of domestic clutter and would be harmful to the function of the Green Belt to prevent urban sprawl and encroachment into the countryside. Inappropriate development is harmful by definition and should not be approved except in very special circumstances. Whilst it is accepted that the new vehicular access is safer than the previous access in highway safety terms, there is limited evidence to demonstrate that the previous access was unsafe to the extent that a new access through a separate site was necessary, or that another access point would not have been suitable. On that basis the considerations that have been advanced do not amount to the very special circumstances needed to clearly outweigh the harm the development would cause to the Green Belt by reason of inappropriateness, as well as any other harm resulting from the development, contrary to Policy GB1 of the Core Strategy and paragraph 148 of the NPPF.

7. RECOMMENDATION - REFUSE

Reasons:

1. The site is within the Green Belt and the development would be tantamount to a material change of use from equestrian to residential purposes, thereby constituting inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development is therefore contrary to Policy GB1 of the Core Strategy and paragraph 150 of the NPPF.
2. No considerations have been advanced that amount to the very special circumstances needed to clearly outweigh the harm the development would cause to the Green Belt by reason of inappropriateness, as well as any other harm resulting from the development, contrary to Policy GB1 of the Core Strategy and paragraph 148 of the NPPF.
3. The development by virtue of the incorporation of the application site into the residential curtilage, the provision of additional hardsurfacing, vehicles and general domestic paraphernalia associated with a residential use would be prejudicial to the openness, character, function and amenity of this part of the Green Belt, contrary to Policy GB1 of the Core Strategy.

Proactive Statement - Whilst paragraph 38 of the National Planning Policy Framework (2021) requires the Local Planning Authority to work with applicants in a positive and proactive manner to resolve issues arising from the proposed development; in this instance a positive solution could not be found and the development fails to accord with the adopted Core Strategy (2012) and the National Planning Policy Framework (2021).



Doveleys Farm, Sandy Lane, Hatherton, WS11 1RW