

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 14th January 2019

Application No:	HPK/2018/0428	
Location	Land Rear of 20 Sunlaws Street, Glossop, Derbyshire	
Proposal	Detached 4 bedroom stone house with natural slate roof with associated external works and landscaping. Using existing vehicular access from Sunlaws Street	
Applicant	Mrs E Garratt	
Agent	Mr Eric Smith	
Parish/ward	Howard Town Ward	Date registered 23/08/2018
If you have a question about this report please contact: Mark Ollerenshaw <i>mark.ollerenshaw@highpeak.gov.uk</i> 01538 395400 ext. 4921		

1. REFERRAL & BACKGROUND

1.1 Members will recall the above application HPK/2018/0428 at the meeting of the 3rd December 2018, whereby it was resolved to approve the application subject to conditions.

1.2 The reason that the application is being referred back to the Committee is to consider the late representations/objection made by a Landscape Architect on behalf of the owner/occupier of No. 22A Sunlaws Street. The late objection was reported verbally to the Committee. However, given that it comprised a detailed technical report it is considered that the contents of the objection should be set out in full so that Members can consider the application in light of the late information received together with the response from the Council's Arboricultural Officer. Subsequent to this, the Landscape Architect acting for the occupants of No. 22A has provided further comments in response to the updated drawings.

1.3 Since the previous committee decision the applicant submitted updated plans on 13th December with additional information which seeks to address the comments made by the objector. The applicant states the following:

- The house is beyond 3.72m root protection zone for T4 Oak.
- Proposed house is further from T3+T4 than initial design, no trimming required, screening as existing.
- Proposed house is more than 21m from no. 24 kitchen window.
- Tree root protection zone increased to 3.72m.
- No works near T1 roots will not be affected.
- Bins position are shown on plans.

- Construction work will not affect existing fence, see section drawing.
- Retaining wall will not require concrete foundation. Clients proposing to use wooden interlocking blocks.
- House FFL is approx. that of the existing shed. No roots were encountered when the ground was excavated for that.
- The house is not behind no 24.
- Replacement trees Cherry Merton Glory. Apple Reverend Wilks.
- The tree report does not require amending as the building has been reduced in size, further from trees and outside the RPZ.

1.4 The neighbouring occupiers have been notified of the updated plans/information and the consultation period was extended until 3rd January 2018 to allow for any additional public comments.

1.5 This report deals only with the late neighbour representations and the updated plans and should be read in conjunction with the previous report (appended) which deals with all other planning considerations.

1.6 The application details, including the plans, supporting documents, representations and responses from consultees, can be found on the Council's website at:-

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=226673>

2. CONSULTATION RESPONSES:

Third Party Representations

2.1 The late representation received on 30th November 2018 made by the Landscape Architect on behalf of the occupants of No. 22A is primarily concerned with the applicant's Arboricultural Report and revised drawings (NB. These were subsequently revised). The objection states the following:

It is recognised that there have been major amendments to the proposal within the latest submission, which reduce the physical and visual dominance of the proposed house, and in particular reduce the overlooking of 22A Sunlaws Street, however an essential element is the screening effect of existing trees, and the design of the garden.

The analysis of the drawings indicates that the proposals for the external works have not been properly considered and are not detailed on the drawings. These have been highlighted in the comments.

In particular as stated in the comments within this report relating to Drawing No 410/9A Rear Elevation/ Cross Section Site, "It is

probable that the fence would collapse, tree T3 would have to be removed, tree T4 would probably become structurally unstable and would start to die due to the removal of a substantial part of its root system. and tree T1 would probably be severely damaged as a result of the removal of part of its root system.”

General Note regarding Drawings

- 1. Eric Smith Architect & Designer Drawings not dated*
- 2. Eric Smith Architect & Designer Drawings annotated with scale but paper size not noted for PDFs available to the public on High Peak Borough Council website.*

Arboricultural Survey

- 1. The Arboricultural Report dated June 2018 has not been updated following the issue of revised drawings on the High Peak Borough Council website on 22 November 2018.*
- 2. There is no evidence of a soil assessment having been carried out as required in BS 5837:2012 Trees in relation to design, demolition and construction Recommendations paragraph 3.4.1.*
- 3. Paragraph 3.2.4 of the Arboricultural Report states that “To the south, T1 is a mature Cherry and T3 is a mature Holly T3 which are large example of the species and are of good form and in good overall condition, providing good visual amenity value to the site.” In Appendix 4: Tree Data both trees, T1 and T4, are stated of being “Mod(erate)” Amenity Value. These statements are contradictory.*
- 4. All trees identified within Appendix 4: Tree Data have a measured stem diameter except tree T4 Oak, located within the garden of 22A Sunlaws Street, which is estimated. The estimate is 200mm although is in fact 310mm.*

Fig 1: Trees T3 and T4

This can be seen from Fig 1, showing the holly T3, diameter 360mm, to the left, and the oak T4 to the right. This has a considerable effect on the calculation of the Root Protection Area for tree T4, which should have a nominal radius of 3720mm as opposed to 2400mm.

- 5. Drawings Appendix 5: Tree Constraints Plan and Appendix 6: Tree Impacts Plan need to be updated with the correct RPA for tree T4.*

6. *Drawing Appendix 6: Tree Impacts Plan needs to be updated with current site layout.*

7. *Paragraph 4.2.3 states “Trees will require pruning management to implement the new design proposals. The neighbouring Lime T23 will require its southern crown reducing by around 2m to facilitate the new development. The Holly T3 and Oak T4 will also likely require minor reduction works to their northern crowns. It is likely the trees will readily tolerate these works”.*

However Appendix 4: Tree Data states “No work required” for tree T4. These statements are contradictory.

8. *Paragraph 4.2.3 further states “and that the visual amenity they provide will not be significantly diminished.”*

Appendix 1: Authors Qualifications & Experience lists five individuals none of whom appear to have any qualification or experience relating to visual assessment or determination of visual amenity.

9. *Paragraphs 4.3.1 to 4.3.3 assess indirect impacts of the development on the trees as follows:*

4.3.1 *The tree Root Protection Area (RPA) detailed on the Tree Constraints Plan at Appendix 5, has been used as a layout design tool, to inform on the area around a tree where the protection of the roots and soil structure is treated as a priority.*

4.3.2 *Development activities are proposed near retained trees. The proposed new building encroaches into the edge of the RPAs of trees T1, T3 and T23.*

(This does not take into account the correct RPA for tree T4.)

If required, trial pits could be dug to determine if any significant roots are within the proposed footings, and if so, special foundation design such as mini/micro pile and suspended beam or a cantilevered foundation could be used to avoid negative impacts on the trees condition.

4.3.3 *The buildability of the proposed has been assessed in terms of access, adequate working space and provision for the storage of materials, including topsoil, in relation to the trees.*

However there appears to be no account taken of the siteworks within the development area, only of the impact of the house itself. This is no doubt due to the paucity of information on the site plan and the fact that there was no level information visible,

(at least on publicly available drawings), at the time of publication of the Arboricultural Report.

Extrapolating information from the published drawings indicates a level change of 1.3 metres from the gate at the end of the driveway to the proposed ground level at the house, a distance of approximately 13.5 metres

Drawing No 410/2C Site Plan

1. Path and retaining wall along south side of house not indicated. (These are only shown in an incomplete manner on Drawing No 410/5A Floor Plans and indicated on Drawing No 410/9 Rear elevation/cross section site along the section line.) Section Line is not indicated on any plans.

2. No paved areas to rear of house shown.

3. Materials for paved surfaces not indicated, other than turning area is to be a permeable surface and driveway is gravel.

4. No levels shown on any plans. Levels only shown on Drawing No 410/9 Rear elevation/cross section site.

5. No retaining walls shown. There appears to be one between the parking area and the house, Drawing No 410/6E Elevations & Site Section, and one along the southern boundary, Drawing No 410/9 Rear elevation/cross section site.

6. Location for bins not defined. It appears to block the access or be within The proposed new hedge along southern boundary.

7. No details of landscape proposals other than “new hedges and fruit trees”. Details of species and specification at time of planting should be provided.

Drawing No 410/3A Site Analysis plan

1. “New hedge rear parking spaces boundary 16 and on boundary 22a”; no details of hedges provided.

2. “No trees of value removed, new hedge, replacement trees, additional planting and wildlife habitat provided”; no details provided.

Drawing No 410/5D Floor Plans

1. Undefined path and planting bed shown on south side of house.

2. *Inset showing original and current floor plans overlaid implies length of house reduced by 55%, this only applies to the 2 storey element.*

Drawing No 410/6E Elevations & Site Section

1. Front Elevation

Section shown with side path, retaining wall and bank adjacent 22A Sunlaws Street. These elements are not shown on the Site Plan.

2. *No trees shown except Lime T23 at 16 Sunlaws Street.*

3. *Note on drawing: “planting bed to attract pollinators”. This is not indicated on any other drawings. Is it the “wildlife habitat”?*

4. *Note on drawing: “vegetable garden” This is only indicated elsewhere on Side Elevation to No 16*

Side Elevation to No 16

1. *Vegetable Garden indicated as above*

Rear Elevation

1. *Section shown with side path, retaining wall and bank adjacent 22A Sunlaws Street. These elements are not shown on the Site Plan.*

2. *No trees shown except Lime T23 at 16 Sunlaws Street.*

Elevation from Sunlaws Street

1. *Note on drawing: “Proposed FFL 1.67m lower than ex drive”*

Side elevation to no 22a

1. *Note on drawing: “Proposed FFL 1.67m lower than ex drive”*

2. *There appears to be a vertical change in level, (presumably a retaining wall), shown beyond the parking area. This is not indicated on any other drawings.*

Drawing No 410/7B Parking Plan

1. No details of “New screen hedge at back of parking on boundary with no 22a garden”.
2. No details of “New boundary wall 1.8 m high rear 20. Screens parking spaces from existing houses 20+18 Sunlaws Street”.
3. No details of surface finishes.
4. No retaining walls shown. There appears to be one between the parking area and the house, Drawing No 410/6E Elevations & Site Section, and one along the southern boundary, Drawing No 410/9 Rear elevation/cross section site.

Drawing No 410/8A Response to Comments

1. The comment “D Existing trees retained and protected, provide screen to 22a +24 Sunlaws Street. Trees higher than house”. is dependent upon the trees being adequately protected, which is not the case with the current proposals.
2. The comment “I Landscape design and maintenance conditioned and enforced by council.” does not pertain to any proposals within the application. There are no landscape design proposals and no landscape management plan.

Drawing No 410/9A Rear Elevation/ Cross Section Site

1. The line of the cross section through the boundary with 22A Sunlaws Street is not indicated on any of the drawings.
2. The Lime T23 is indicated on the drawing but no other trees are indicated.
3. It is assumed that the cross section is located approximately 1.35 metres from tree T3 based upon the existing ground level of 19.45, correlated with the topographical survey.

Fig 2: Tree T3 Holly located adjacent to existing boundary fence

As can be seen from Fig 2, tree T3 with a stem diameter of 360mm, as per the Arboricultural Report, is located immediately adjacent to the existing boundary fence

4. The implication of the cross section is that the existing ground is cut back from the line of the fence with an approximate 65% slope on top of a 600mm retaining wall, an overall reduction in level of 1100mm. In order to construct the retaining wall and its foundation, excavation to a depth of approximately 1500mm below existing ground level is to be expected.

These proposals takes no account of the foundations of the fence, the presence of tree T3 or the Root Protection Areas of trees T1, T3 and T4.

It is probable that the fence would collapse, tree T3 would have to be removed, tree T4 would probably become structurally unstable and would start to die due to the removal of a substantial part of its root system. and tree T1 would probably be severely damaged as a result of the removal of part of its root system.

2.2 As noted above, further comments received on 3rd January 2019 have been made by the Landscape Architect acting for the occupants of No. 22A, in which the following issues are raised:

- The drawings indicate that the proposals for the external works have still not been properly considered and not detailed on the drawings.
- The agent states that the tree report does not require amending as the building has been reduced in size, further from trees and outside the RPZ. However, the survey informs the design not vice versa.
- The report remains factually incorrect in relation to tree T4.
- The Arboricultural officer's comments do not address the impact upon the trees on the boundary with No. 22A.
- Extent of paving still not indicated and finishes not referenced.
- The bins shown do not relate to any normal bin size and will block the entrance gateway or be located on the adjacent bank.
- The retaining wall is now delineated with its line determined by the revised RPZ for tree T4. At this point a curved wall is shown on the outer edge of the RPZ.
- Retaining wall design and its affect on the adjacent bank, trees and fence is unclear.
- The retaining wall details indicate the requirement for buttresses and provision of lightweight drainage.
- The probably degree of excavation required would appear to be incompatible with maintaining RPZs and integrity of boundary fences.
- The absence of any technical drawings would suggest that a design for this proposed wall has not been carried out. Any such retaining wall, which could possibly impact upon existing trees and features, should have its design checked by a chartered engineer to ensure it is feasible.
- There were at 3 December 2018, the date of the Case Officer's Report, no landscape proposals and the development would have been injurious to existing trees and other features and therefore did not comply with LP Policy EQ6.
- As a result of the Landscape Architect's Review, revised proposals were submitted and uploaded to the Council's website

on 14th December – there is still no landscape plan other than proposals for two fruit trees and location of a hedge surrounding the parking area.

- Size and specification of wildlife friendly planting, garden planting and wildflower planting is not specified.
- Location of the planting appears to be only surrounding the parking area not along the southern boundary with No. 22A.
- In conclusion, the revised planning application still does not contain any comprehensive external works or landscape proposals but relies on a series of downloads from various websites; no proposals for a well-designed private space in accordance with Policy EQ6; and a major concern still remains the lack of a definitive proposal and design for the retaining wall.

The objector also considers that the Oak T4 has a DBH of 310mm not 200mm quoted by the Council's Arboriculturalist which casts doubt on the calculation that the root protection area will not be impacted by the excavation required for the retaining wall.

2.3 The occupant of No. 22A states that Para 7.30 of the Case Officer's Report is incorrect as it states that "The main sitting out areas for these neighbours are located immediately to the rear of the properties." The neighbour states that this is not correct as the main sitting out area for 22a Sunlaws Street is beyond their sheds, with a swing seat and bordered gravel area between the trees marked T4 and T6 in the Arboricultural Report. The neighbour reiterates that the proposed house will significantly impact on their privacy in this space.

2.4 In addition, a further letter of objection has been received from the occupant of No. 18, who continues to have concerns that the proposal will result in loss of privacy to their property.

2.5 An additional letter of objection has also been received from the occupant of No. 22, who raises the following issues:

- The Committee should refer to the 2009 Appeal Decision before making their decision.
- The land was bought by Mr Garratt when the previous application failed, having objected to this and also a previous application.
- Members are welcome to visit No. 22 to see the damage caused by the erection of the six foot fence and also the impact the proposed house will have on the neighbour's back bedroom window and kitchen.
- Previous planning applications have failed, what has changed?

Arboricultural Officer

2.6 The late representation/objection received from the Landscape Architect on 30th November 2018 has been reviewed by the Council's Arboricultural Officer, whose main position is that none of the trees are worthy of a Tree Preservation Order and that the impact on trees is not a reason for refusal in this case. The Arboricultural Officer states that

provided the works are undertaken with great care and in accordance with an approved method statement then damage could be kept to a minimum. The Root Protection Area could be addressed by the conditions requiring submission of an Arboricultural Method Statement and Tree Protection Scheme. Details of landscaping including planting specifications could be dealt with by a condition requiring submission of landscaping details.

2.7 With regard to the objector's criticism that no soil assessment has been carried out as required in BS 5837:2012, the Arboricultural Officer comments that soil samples are rarely taken. The need for this primarily relates to identifying shrinkable clay soils where the proximity of existing or new trees to dwellings may be an issue and foundation depths need to be designed accordingly. Shrinkable clay soils are not significantly widespread in the area and damage from tree related subsidence rare. This point is noted but would not make a material difference to the decision.

2.8 With regard to the objector's criticism that there are contradictions within the Arboricultural Report concerning the condition of the trees T1, T3 and T4, the Arboricultural Officer has noted this but does not consider that it makes a material difference to the consideration of the application.

2.9 In relation to objector's concern that the stem diameter of tree T4 located within the garden of No. 22A has been estimated at 200mm but according to the objector is in fact 310mm, and consequently this has an effect on the calculation of the Root Protection Area for this tree, the Arboricultural Officer comments that it is not unusual for the DBH to be estimated for third party trees and goes on to state that the Tree Protection Scheme should reflect the Root Protection Area required.

2.10 With regard to the objector's comment that the Tree Impacts Plan needs to be updated with the correct RPA and updated site layout, and further that there are contradictions within the Arboricultural Report concerning the extent of works required to the trees, the Arboricultural Officer considers that these matters can be addressed by condition and form part of the Arboricultural Method Statement.

2.11 The Arboricultural Officer has also reviewed the additional comments/objections of the Landscape Architect received on 3rd January 2019 and states that:

My comments with regards to the potential impact of the wooden block retaining wall on the tree roots are as follows.

- *The trees which are to be impacted on are not protected trees although the Oak T4 is in third party ownership.*

• If the Oak T4 has a DBH of 310mm the required RPA is 3.7m. The face of the wall is around 3.5m from stem of the tree therefore less than 45° of the circumference of the RPA. BS5837:2012 allows for 20% offset in the RPA (43.5m²) in this case 0.7m or an area of 8.7m². Therefore the works required to install the retaining wall may impact slightly on a small section of the roots of the Oak tree. I estimate that an area of around 5m² of the RPA may be effected as over 50% of the Rooting area of the tree is on third party property and to be left total undisturbed I consider the allowable offset is adequately provided for. Also if undertaken with due care to ensure there is minimal disturbance this will not be sufficient to be detrimental to the trees health and or stability.

• The holly T3 within the proposal site has a DBH of 350mm and requires a RPA of 4.2m. The face of the wall is from 4.5m to 3.7m from the stem of this tree less than 45° of the circumference of the RPA is effected. BS5837:2012 allows for 20% offset in the RPA (55.4m²) in this case 0.8m or 11.08m². Therefore the works required to install the retaining wall may impact slightly on a small section of the roots of the holly tree. But if undertaken with due care to ensure there is minimal disturbance this will not be sufficient to be detrimental to the trees health and or stability.

Given the above my previous comments stand and I would expect the Arboricultural Method statement to include the construction of this wall.

3. OFFICER COMMENT

3.1 The updated plans received following the December Development Control Committee meeting seek to respond to the late comments from the objector. The updated plans include details of levels, root protection zones, the new retaining wall, new hard surfaces and planting. The applicant states that the construction work will not affect the existing boundary fence with No. 22A and that the retaining wall will not require a concrete foundation as the applicant is proposing to use wooden interlocking blocks.

3.2 The Objectors Landscape Architect's objection is concerned principally with the Arboricultural Report and updated drawings. It is important to note that the footprint of the proposed dwelling has previously been reduced meaning that it is further away from the trees close to the boundary with No. 22A and also further away from the existing neighbouring houses on Sunlaws Street. The applicant has clarified that the proposed dwelling is beyond the Root Protection Zone for T4 Oak and no works are required to T3 or T4. Furthermore, the applicant states that 9 years ago the ground within the Root Protection

Zone was excavated to 1.5m to provide footings for the timber building which is to be removed as part of the development and no roots were encountered at that time. The Arboricultural Report outlines the precautions to be undertaken to protect the roots before commencing work.

3.3 As can be seen from the Arboricultural Officer's responses summarised above, none of the trees are considered worthy of a Tree Preservation Order and the impact on the trees is not a reason to refuse the application, although conditions are recommended to require an Arboricultural Method Statement to ensure that the trees are protected during the construction phase. The Arboricultural Officer is of the opinion that provided that the works are undertaken with great care and in accordance with an approved Method Statement then damage could be kept to a minimum. The objector is concerned that the landscaping proposals are insufficiently detailed. However, it is considered that this can be dealt with by a condition requiring a detailed landscaping scheme to be submitted and agreed. With regard to the retaining wall, the applicant has suggested that should the Council consider further control necessary then a condition could be attached requiring the design of the retaining wall to be agreed. This is considered reasonable and therefore a condition is attached to the recommendation.

3.4 The occupant of No. 22A states that Para 7.30 of the Case Officer's Report is incorrect. This states: "The main sitting out areas for these neighbours are located immediately to the rear of the properties." The neighbour states this is incorrect as the main sitting out area for 22A is beyond their sheds, with a swing and bordered gravel area between the trees marked T4 and T6 in the Arboricultural Report. The neighbour considers that the proposed dwelling will significantly impact on privacy in this space. However, as noted in Para 7.30 of the original report there is tree/shrub planting along the side boundary with this neighbouring property which should minimise the impact that the proposal will have on the privacy of the neighbour's garden and the design of the proposed dwelling, as amended, does not contain any windows to the side elevation facing towards the neighbour's garden. As such, it is considered that the proposal will not result in significant loss of privacy to this neighbouring occupier.

3.5 With regard to the objector's concerns about the details submitted for bin storage and collection and the extent of paving and finishes, it is considered that these matters can be satisfactorily addressed by means of the conditions attached to the recommendation relating to bin storage and landscaping respectively.

3.6 Overall, subject to conditions it is concluded that there are no arboricultural / landscape design or any other grounds on which to refuse this application and therefore the proposal complies with the relevant Local Plan policies and the provisions of the NPPF in this respect.

4. PLANNING BALANCE AND CONCLUSIONS

4.1 In conclusion, the updated drawings and comments from the Arboricultural Officer address the objector's concerns regarding the impact on trees and having regard to this, along with the relevant development plan policies and material considerations set out in the previous report (appended), the scheme is recommended for approval, subject to conditions.

5. RECOMMENDATIONS

A. That planning permission is APPROVED subject to the conditions outlined below.

Conditions

Condition number	Brief description	Comment
TL01	The development hereby permitted shall be begun before the expiration of three years from the date of this permission	
AP01	Development in accordance with approved/amended plans	
LA10	Tree retention	
LA13	Arboricultural Method Statement	
LA14	Tree Protection	
NON STANDARD	Landscaping scheme to be submitted and agreed.	
LA02	Landscaping to be carried out and maintained.	
NON STANDARD	Biodiversity enhancements – integral bat box and bird box shall be incorporated within the new dwelling in accordance with details to be agreed.	
NON STANDARD	Construction working times: i. 07:30 - 18:00 hours (Monday to Friday); ii. 08:30 - 14:00 hours (Saturday) iii. No working is permitted on Sundays or Bank Holidays.	
NON STANDARD	Any piling restricted to the hours of 09:00 to 16:00 Monday to Friday only	

NON STANDARD	There shall be no visible dust emissions beyond the site boundary.	
CL05	If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment.	
NON STANDARD	Foul and surface water shall be drained on separate systems.	
NON STANDARD	Details/samples of facing and roofing materials and hard surfacing to be submitted and agreed.	
NON STANDARD	Details of rainwater goods to be submitted.	
NON STANDARD	Joinery details to be submitted.	
NON STANDARD	Details for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles during construction works.	
NON STANDARD	2m x 70m visibility splays shall be maintained from the existing vehicular access clear of all obstructions greater than 1m in height (0.6m in the case of vegetation).	
NON STANDARD	No dwelling shall be occupied until space has been laid out within the site in accordance with the application drawings for parking and manoeuvring of residents and visitors vehicles.	
NON STANDARD	Solid bound surface to the access road	
NON STANDARD	Details of arrangements for storage of bins and collection	

	of waste shall be submitted for approval.	
NON STANDARD	Details of retaining wall to be submitted and agreed.	

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Operations Manager - Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Informative

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

Site Plan

