

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 22nd March 2021

Application No:	HPK/2021/0006	
Location	Land across the road from 3 Silk Hill, Buxworth, Derbyshire, SK23 7TA	
Proposal	Retrospective permission for a shed with a non permanent base measuring 12 sqr meters to replace existing greenhouse	
Applicant	Mrs Jo Holden	
Agent	None	
Parish/ward	Blackwood	Date registered 11 th January 2021
If you have a question about this report please contact: Tom Hiles, Tel. 01298 28400 extension 5430, tom.hiles@highpeak.gov.uk		

1. SUMMARY OF RECOMMENDATION

Refuse

1. REASON FOR COMMITTEE DETERMINATION

- 1.1 This application has been brought before the Development Control Committee at the request of the Chairman because it is an application for retrospective planning permission and is of interest to the local community.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The application site is a triangular parcel of open space measuring around 0.04ha to the south of Buxworth located between Silk Hill and the A6. The site is opposite 3-6 Silk Hill, a row of stone terraced houses, and is surrounded at the west by an open plot hosting a domestic garage, to the north (rear) by woodland, and to the south (front) and east by Silk Hill. The site is within the Green Belt and Open Countryside and is just outside a defined Built Up Area Boundary for Buxworth.
- 2.2 The site appears to have been in use as a domestic garden for some time and previously hosted a small greenhouse at the rear corner. The applicants are the owners of no. 3 Silk Hill, and the application notes over time they have cleared the site which was previously overgrown and established it as a garden. The site is not within the same ownership as their house at no. 3 but is owned by Highways England and is used by the applicants under licence.

3. DESCRIPTION OF THE PROPOSAL

3.1 Retrospective permission is sought for a timber shed located to the rear corner of the site. The shed measures 3m x 3.7m and 3m to ridge height. A small flagged patio has been laid to the front of the shed. The application notes that the shed was built after the greenhouse was blown down in a storm. Photos submitted with the application indicate that the shed is used in part as a kind of garden room.

3.2 The application notes that:

“The shed has seating inside as well and space for gardening tools and the mower needed to maintain the land... otherwise these tools would have to taken across the road to our home and up a steep flight of steps to the back garden. The shed had been fantastic during lockdown allowing the tenants of the hamlet on Silk Hill outside space during Lockdowns and being in Tiers due the pandemic of Covid... The shed is a replacement for the old greenhouse but a better built structure offering security for gardening equipment and a lovely place for residents to enjoy some outside space.”

3.3 A letter submitted with the application further notes that:

“The shed/garden has been a place which has given many of the residents of the hamlet a life line during the pandemic for their wellbeing. Lots of the residents have no outdoor space so we have shared the area with them. Our local book club have really benefited from a place to swop books or take some time out in a nice environment while being safe and socially distancing. We have letters from all the local residents supporting the shed and commenting on how it enhances the space.”

3.4 The following plans have been submitted with the application:

- Location Plan
- Block Plan
- Details (*elevations*)
- Measurements (*elevations with dimensions*)
- Parking Plan indicating availability of on-street parking

3.5 The application is accompanied by a covering letter explaining the background and circumstances, summarised above.

3.6 The application, the details attached to it including the plans, comments made by residents and the responses of the consultees can be found on the Council's website at: <http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=245012>

4. RELEVANT PLANNING HISTORY

4.1 There are no previous planning applications relating to the site.

5. PLANNING POLICIES RELEVANT TO THE DECISION

High Peak Local Plan 2016

S 1 - Sustainable Development Principles
S 1a - Presumption in Favour of Sustainable Development
CF 6 - Accessibility and Transport
EQ 3 – Rural Development
EQ 4 – Green Belt development
EQ 6 - Design and Place Making
EQ 9 – Trees, woodland and hedgerows

National Planning Policy Framework

Achieving Sustainable Development	Chapter 2
Achieving Well Designed Places	Chapter 12
Protecting Green Belt Land	Chapter 13

6. CONSULTATIONS CARRIED OUT

Site notice	Expiry date for comments: 25 th February 2021
Neighbour letters	Expiry date for comments: 2 nd February 2020
Press Notice	None

Neighbours

6.1 Neighbours were contacted to by way of written letters. Three comments were received from nearby residents, all of which were in support of the application. These noted that the site is used by the community as a tranquil space, that the shed provides safe and secure storage for equipment used for maintaining the land, and that the shed is attractively designed, enhances the landscape and provides wildlife habitat.

Parish Council

6.2 **Chinley, Buxworth & Brownside Parish Council** - Support this application since it provides a benefit to the local community at Silk Hill and causes no harm to the Green Belt.

7. POLICY AND PLANNING BALANCE

Planning Policies

- 7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 7.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the High Peak Local Plan Policies Adopted April 2016.
- 7.3 Other material considerations include the National Planning Policy Framework (NPPF), Supplementary Design Guidance, and National Planning Policy Guidance (NPPG). Paragraph 11 of the NPPF explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan, they should be approved without delay, but where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Principle of Development: Green Belt and Open Countryside

- 7.4 The site is situated outside the built-up area boundary of any town or larger village as defined within the adopted Proposals Map, and therefore lies in the Open Countryside. The site is also situated within the North Derbyshire Green Belt.
- 7.5 As such, the application is subject to Local Plan (LP) Policies EQ3 and EQ4 of the Local Plan which refer to Rural Development and Green Belt Development respectively.
- 7.6 LP Policy EQ3 supports development associated with recreational and open space uses in accessible and least environmentally sensitive locations. Whilst the development understood to in part be in use for recreational purposes (by the applicants and other local residents), it is not considered that the site is located in an accessible location, being somewhat isolated, and not directly served by public transport. As such the proposal is not supported by EQ3.
- 7.7 LP Policy EQ4 requires development proposals in the Green Belt to be assessed and determined in line with national policy. Chapter 13 of the NPPF (2019) contains the relevant national Green Belt policies that apply to this application.

- 7.8 Paragraph 133 of the NPPF clarifies that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; their essential characteristics being their openness and permanence. Paragraph 134 goes on to set out the five purposes of the Green Belt:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging in to one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to prevent the setting and special character of historic towns;
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 7.9 In determining applications, paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 7.10 Paragraph 144 of the NPPF goes on to state that substantial weight should be 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, is clearly outweighed by other considerations.
- 7.11 Paragraphs 145 and 146 of the NPPF contain a list of the types of development which are classified as exceptions to inappropriate development, and thus acceptable in principle. These include the following, which are considered to be relevant to the circumstances.

Buildings for agriculture

- 7.12 Paragraph 145 part a) notes that buildings for agriculture and forestry are excepted from the general principle against new development in the Green Belt.
- 7.13 It does not appear that the building is essential or primarily required for agricultural or forestry purposes. Horticulture does fall within the definition of agriculture. Whilst the building is in part used to store tools for the maintenance of the site, and replaces a greenhouse which was previously on the site, horticultural activities on the site are extremely limited. Predominantly the site is laid to grass, there is a small patio area with a few potted plants, but there is no evidence of for example, vegetable, plant or shrub growing etc. Furthermore, evidence from the applicant and supporters indicates that the building used to a significant degree as a summerhouse, community room, book club meeting place etc. undertaken on the site. As such the maintenance purpose of the building does not relate to agriculture, and the building is not primarily a building for agriculture or forestry.

Outdoor recreation

7.14 Paragraph 145 part b) notes that appropriate facilities for outdoor sport and outdoor recreation are appropriate as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is understood that the garden and the shed are used by the applicants and other residents for relaxation and for community activities, and that the shed is also used to store equipment used to maintain the site. The use of the shed for relaxing appears to be separate to the use of the rest of the site for relaxing, in other words the shed does not appear to be required to facilitate outdoor recreation at the site. Whilst it is understood that the shed also provides convenient storage of equipment for maintaining the garden (which could be considered to be appropriate to supporting the outdoor recreation use of the site), it is clear that this is not strictly necessary given the option to store equipment at the applicants' home opposite the site. In any case this is only part of the purpose of the building. For these reasons, the shed cannot be considered to comprise an appropriate facility for outdoor recreation.

Replacement buildings

7.15 Whilst the application notes that the shed replaced an existing greenhouse on the site, it does not appear that the shed would fully be in the same use, and in any case it appears (with reference to Street View imagery) that the shed is materially larger than the former greenhouse. The proposal would therefore not comprise the exception noted under NPPF paragraph 145 part d).

Infill development

7.16 The site is not an infill site, due to the open aspect to the north (rear) and east sides. The site is also outside the defined Built Up Area Boundary for Buxworth. Development of the site would therefore not comprise limited infilling within a village, and would not comply with paragraph 145 part e).

Previously developed land

7.17 The shed has replaced a previous greenhouse, which would appear to have been a temporary structure. The site is therefore not considered to comprise previously developed land. The shed has a greater impact on the openness of the Green Belt than greenhouse owing to its greater size and solid construction. The development therefore does not comprise a form of development permitted by paragraph 145 part g).

7.18 The proposed development would not comprise any other forms of appropriate development in the Green Belt, and would therefore be inappropriate development and should not be approved unless there

are very special circumstances which would clearly outweigh the harm by reason of inappropriateness, harm to the purposes of including land within the Green Belt, and any other harm resulting from the proposed development. It is considered that the proposal also causes moderate harm to two of the purposes of including land within the Green Belt: assisting in the safeguarding of the countryside from encroachment, and assisting in urban regeneration. It is not considered that the proposal results in harm in terms of any other planning considerations. The NPPF notes that substantial weight should be attributed to any harm to the Green Belt.

- 7.19 Whilst the applicant has explained the circumstances behind the building of the shed and the benefits of it, these have not been put forward as very special circumstances, and it is not considered that the benefits to local residents or to the maintenance of the site comprise very special circumstances. There are therefore no considerations which would outweigh the identified harm to the Green Belt.
- 7.20 For these reasons, approval of the development would be contrary to local policy EQ 4 and NPPF paragraphs 143-147, and would be unacceptable in principle.
- 7.21 Whilst it is also necessary to consider the proposed development in terms of all other material planning considerations, as follows, the acceptability (or not) in terms of these matters does not alter the acceptability of the proposal in basic principle.

Design, Character and Appearance

- 7.22 LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.
- 7.23 LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, in terms of scale, height, density, and layout.
- 7.24 NPPF paragraph 127 states amongst other matters that new developments should add to the overall quality of the area, be visually attractive as a result of good architecture and sympathetic to the surrounding built environment.
- 7.25 The proposal is for a timber shed in a typical form and proportions. It is considered that the appearance of the building is appropriate to its purpose and sympathetic to the transitional residential to rural character of the site and the surrounding area. The shed is therefore considered to be acceptable in design terms and to support these objectives.

Public and Residential Amenity

- 7.26 LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.
- 7.27 LP Policy EQ10 states that the Council will protect people and the environment from unsafe, unhealthy and polluted environments by ensuring development avoid potential adverse effects by imposing planning conditions that mitigate and strictly control issues such as noise and light intrusion.
- 7.28 Paragraph 127 of the NPPF states that planning should create places with a high standard of amenity for all existing and future users.
- 7.29 Paragraph 180 of the NPPF highlights that planning decisions should ensure that new development is appropriate for its location through mitigating and reducing noise impacts, and limiting light pollution from artificial light on local amenity.
- 7.30 The building is set around 18m from the closest dwellings, at 3-6 Silk Hill, and is set back from the road. Owing to the scale and design of the proposal and the distance to any residential buildings, it is not considered that any harm to residential or public amenity has resulted from the structure, and would comply with the objectives of policies EQ6 and E10 and paragraphs 127 and 180 of the NPPF.

Trees

- 7.31 Policy EQ9 notes that existing trees, woodlands and hedgerows will be protected, including by requiring that existing woodlands, healthy mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss.
- 7.32 The building is placed close to mature, non-protected trees at the rear. Given the timber construction of the structure it appears unlikely that any ground works will have had any significant impact on the roots of the nearby trees. Accordingly it is considered that the proposal would comply with the objectives of policy EQ9.

Access, Parking Provision and Highway Safety

- 7.33 LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner. The policy requires new development can be integrated within existing or proposed infrastructure, does not lead to an increase in on street parking to the detriment of the free and safe flow of traffic, and provides details of proposed parking provision based on an assessment of parking need and the impact on the surrounding road network.
- 7.34 Paragraph 108 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 109 goes on to state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.35 DCC Highways has not objected to the development and it is considered that the development does not raise any highway safety concerns and therefore complies with Policy CF6 of the Local Plan.

Planning Balance & Conclusion

- 7.36 LP Policy S1a reflects the presumption in favour of sustainable development set out within paragraph 11 of the NPPF. For decision taking this means approving development proposals that accord with an up-to-date development 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 planning 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.
- 7.37 The application site lies within the Green Belt. As set out above, the proposal would comprise inappropriate development. The NPPF requires that inappropriate development in the Green Belt only be approved where there are very special circumstances which would clearly outweigh the harm resulting from inappropriateness, and any harm to the purposes of including land within the Green Belt. As well as comprising inappropriate development in the Green Belt, it is also considered that the development would also result in moderate harm to the purposes of including land within it. It is not considered that any of the circumstances relating to the development would comprise very special circumstances, and therefore that there is no weight in the

balance to be attributed against the harm which would result from the development.

- 7.38 The proposed development is not considered to comprise a form of development in the Open Countryside supported by policy EQ3, and approval would therefore be contrary to this policy.
- 7.39 The proposal is acceptable in terms of effects on the character of the local area, residential amenity, trees and highways safety, but these are neutral considerations in the planning balance and do not outweigh the unacceptability of the development in basic principle.
- 7.40 For these reasons it is recommended that retrospective permission should be refused.

8. RECOMMENDATIONS

A. REFUSE for the following reason:

The proposed development represents inappropriate development in the Green Belt and would result in harm due to the inappropriateness and harm to the purposes of including land within the Green Belt. There are no very special circumstances clearly outweighing the harm arising from the proposal. The proposal does not comprise an acceptable form of development in the Open Countryside. Approval of the proposed development would therefore be contrary to policies EQ 3 and EQ 4 of the High Peak Local Plan, and paragraphs 143-147 of the National Planning Policy Framework 2019.

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/informative/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

This recommendation is made following careful consideration of all the issues raised through the application process. Given that the application is retrospective and the proposed development is inappropriate in principle, there has been no scope to seek a positive solution. The Council has therefore acted in accordance with Paragraph 187 of the NPPF, requiring Local Planning Authorities to positively engage with planning applicants.

Site plan

