

**HIGH PEAK BOROUGH COUNCIL  
DEVELOPMENT CONTROL COMMITTEE**

**Date 13<sup>th</sup> September 2021**

<b>Application No:</b>	HPK/2021/0055	
<b>Location</b>	22 Bowden Lane, Chapel-En-Le-Frith, Derbyshire, SK23 0JQ	
<b>Proposal</b>	Removal of existing front boundary wall and new boundary wall and associated landscaping	
<b>Applicant</b>	Michelle Rogers	
<b>Agent</b>	Mr Simon Jones, SJ Design Ltd	
<b>Parish/ward</b>	Chapel East	<b>Date registered</b> 9 <sup>th</sup> February 2021
<b>If you have a question about this report please contact:</b> Tom Hiles, Tel. 01298 28400 extension 5430, tom.hiles@highpeak.gov.uk		

**1. SUMMARY OF RECOMMENDATION**

<b>Approve with conditions</b>
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**2. REASON FOR COMMITTEE DETERMINATION**

2.1 This application has been brought before the Development Control Committee because it is an application for retrospective planning permission and is of interest to the local community, and at the request of Cllr Jim Perkins, due to concerns over highway implications, design and land stability.

**3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

3.1 The application site is a terraced house located on Bowden Lane, a residential street within the built-up area boundary for Chapel and within the Town End Conservation Area.

3.2 Bowden Lane is a narrow, winding lane, closed to through traffic further to the north of the application site, with limited turning opportunities and limited forward visibility at some points. A number of properties do not have off-street car parking and there is some on-street parking along the lane.

3.3 The property including its front garden is elevated above the lane, in common with the neighbouring houses. Property frontages along the lane are characterised by traditional natural stone walls.

3.4 A narrow parking space has been formed at the front of the property by removing the stone boundary wall and excavating approximately 1m depth of the elevated front garden. A retaining wall has been constructed of

reconstituted or artificial stone. The excavated area has been surfaced with tarmac and enclosed with a concrete kerb. The ground level of the space is slightly elevated above the level of the adjacent carriageway.

#### **4. DESCRIPTION OF THE PROPOSAL**

4.1 Partly retrospective permission is sought for the works undertaken without planning permission.

4.2 Following feedback providing during determination, revised plans have been submitted indicating the replacement of the retaining wall (already implanted without permission) with natural stone.

4.3 The following plans have been submitted with the application:

- Location Plan
- Site Plan
- Proposed Plans

4.4 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=245650>

#### **5. RELEVANT PLANNING HISTORY**

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

#### **6. 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 6 Design and Place Making  
EQ 7 Built and Historic Environment

##### **Supplementary Planning Documents**

High Peak Design Guide

##### **Chapel-en-le-Frith Neighbourhood Plan**

No policies relevant to householder applications

##### **National Planning Policy Framework (2021)**

Paragraph 11	The Presumption in Favour of Sustainable Development
Chapter 2	Achieving Sustainable Development
Chapter 4	Decision-making
Chapter 9	Promoting Sustainable Transport
Chapter 12	Achieving Well Designed Places
Chapter 16	Conserving and Enhancing the Historic Environment

## 7. CONSULTATIONS CARRIED OUT

<b>Site notice</b>	Expiry date for comments: 16 <sup>th</sup> March 2021
<b>Neighbour letters</b>	Expiry date for comments: 16 <sup>th</sup> March 2021
<b>Press Notice</b>	None

### Neighbours

7.1 Neighbours were contacted by way of written letters.

7.2 Comments were received from eleven addresses. These comprised one letter of support and ten letters of objection.

7.3 The objections mainly relate to concerns over highways safety and the effects of the works upon the Conservation Area. In particular, objections noted that:

- A car parked in the space will obstruct other vehicles using the lane, including emergency vehicles, as the space is not wide enough to fully accommodate a car
- A long-based van parked in the space has already caused this problem for a refuse lorry
- The site is near a blind bend
- Owners of 27 Hayfield Road opposite the site will have access problems
- Traffic accidents have already taken place on the lane
- The property already includes a garage and off-road parking space
- The works are not in keeping with the Conservation Area
- Parking in the space would cause a highway obstruction which is an offence and would therefore waste police time
- That the works were undertaken without permission
- Issues with bins being stored in the parking space

7.4 Comments also noted:

- Concerns about the stability of the house and neighbouring properties as a result of the excavation undertaken to form the space
- Issues arising during construction
- That the works have been badly undertaken and had partially already collapsed

7.5 These latter comments do not relate to material planning considerations

Consultee	Comment
	<p><b>Chapel-en-le-Frith Parish Council</b> - Strongly object. The property lies within the conservation area, the property should be reinstated to its original condition using the original materials and following the original boundary.</p> <p><b>DCC Highways Authority</b></p> <p><u>Initial comments</u></p> <p><i>All Works demonstrated on the proposed plan are located outside of the existing public highway.</i></p> <p><i>The plan isn't dimensioned although it's stated in the Design &amp; Access statement that the proposals will improve on-street parking. Whilst the Works may result in an effective increase in width of Bowden Lane, and it's appreciated that the widening will basically extend the existing line of the boundary wall of the adjacent property, the 'New Tarmac as Road Surface' will remain private and the existing highway boundary will need to be clearly defined on site e.g. kerb with 25mm upstand immediately adjacent to the existing boundary that would also prevent surface water run-off from the highway entering the site. Measures should also be demonstrated to prevent surface water run-off from the site from entering the highway.</i></p> <p><i>The 'widening' does not appear to be of adequate width to accommodate a vehicle and the applicant should be aware that any vehicle parked in the vicinity in a manner causing obstruction of the highway would be a matter for the police.</i></p> <p><i>Therefore, it's recommended that the applicant is requested to submit details of measures to satisfactorily address the above issues.</i></p> <p><u>Further comments</u></p> <p><i>I've reviewed the photo's you attached and I have some issues / concerns with the works that have been undertaken - there are no drainage provisions to prevent surface water run-off from the new impermeable area flowing onto the adjacent highway, and, due to the raising of the levels (to meet the step level into the property) at the northern end, this results in an abrupt 'step' in levels within public highway limits, which could be a trip risk for pedestrians (especially during the hours of darkness given the limited street lighting on Bowden Lane). The works constructed also do not appear to resemble the proposals shown on the application drawings - the drawings show a 'flush' surface with Bowden Lane and the initial step into the property and gate also being set-back to enable a 'flush' surface to be achieved across the whole frontage.</i></p> <p><i>It is likely, with some minor modifications to accommodate drainage, that the proposals shown on the application drawing may be tolerable from a</i></p>

*highways perspective, however, this does not appear to be what has been constructed (which is not acceptable).*

### **Derbyshire Building Control**

*Building control officer visited on 17th Feb.*

*Arrived on at the property at 12.10pm - Spoke with property owner.*

*Retaining wall to the front of the property is a newly built wall retaining approx. 1.6-1.7m of ground behind. The wall appears substantial and is showing no signs of failure or movement. A small dwarf wall has been removed or taken down at the top of the main retaining wall which was retaining approx, 200mm of ground. The small wall has been removed as the owner now wants to make a planting area at the front and so will gently slope the ground to the top of the main retaining wall. The small dwarf wall has no relevance to the main retaining wall. Case closed as not dangerous.*

### **HPBC Conservation Officer**

#### Initial comments

*The property is in the Town End Chapel Conservation Area and there is a duty to preserve or enhance the character of appearance of the area. Whilst there is no character appraisal for this part of the Conservation Area it is clear that in this area the gritstone stone walls and high banks are a strongly defining feature, providing an attractive setting to the buildings and channelling northerly views out to the countryside beyond. The walls are predominantly coursed rubble with copings of either flat stone or larger blocks on edge.*

*The application seeks to regularise the demolition of the front boundary wall, cutting back of the bankside and erecting a new retaining wall in reconstituted stone to allow roadside parking.*

*Photos of the frontage walling prior to the demolition show that it was coursed gritstone with a flat coping and of similar height to surrounding walls. It is of note that the wall shared the same alignment facing the road as No.24 and this alignment continues around the bend in the road. To the south-east in the opposite direction all the boundaries are slightly set back but this appears to be the historic alignment and is consistent.*

*The work is now completed and the impact of the works can now be assessed. It is evident that the artificial stone is clearly different to the historic gritstone (colour, dressing, uniformity of block size and coursing), the retention of the party boundary wall between Nos 20 & 22 emphasises the cut-out in the road frontage and the disruption to the generally consistent roadside boundary is evident. The roadside storage of bins is a further detrimental change and this could not be controlled. It is a wall of modern appearance which looks out of place in an area of traditional walling. It may set a precedent for other roadside walls to receive the same treatment.*

*Less than substantial harm to character or appearance*

Further comments

*They would need to build an outer face in natural stone to match the adjoining property - full courses of stone rather than stone facing so they can replicate the finish of the adjacent wall and flat, heavy stone copings to match. It would be better to trim back the dividing wall so that you get a continuous frontage rather than a wall jutting out (which would be liable to be damaged anyway). We would be looking for the detailing to match.*

## **8. POLICY AND PLANNING BALANCE**

### **Planning Policies**

- 8.1 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.
- 8.2 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.
- 8.3 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**

- 8.4 The application seeks retrospective planning permission for an alteration to an existing residential property that lies within the built-up area boundary of Chapel-en-le-Firth. Policy S2 sets out that new development will be directed towards the most sustainable locations. Chapel-en-le-

Frith is identified as a one of the borough's "market towns", which will be the main focus for housing, employment and service growth.

- 8.5 As such, the principle of development is considered acceptable, subject to all relevant material considerations. In this case, it is considered that the relevant planning matters are effects on the Conservation Area, highways safety, design and residential amenity.

### **Key Material Considerations**

- Effect on the Conservation Area / Design
- Public and Residential Amenity
- Access and Highway Safety

### **Effect on the Conservation Area / Design**

- 8.6 Local Plan Policy EQ7 states that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment. Particular protection will be given to designated and non-designated heritage assets and their settings, including listed buildings.
- 8.7 NPPF paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 8.8 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.
- 8.9 NPPF paragraph 130 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.
- 8.10 The comments from the heritage officer are noted. It is considered that the scheme as implemented is harmful to the character and significance of the Conservation Area and that granting retrospective permission for the completed works would therefore be contrary to policy EQ7 and the NPPF.

- 8.11 Revised proposals have been submitted during the course of this application, in response to the comments from the heritage officer. The revised plans indicate the replacement of the existing retaining wall with natural stone to match the existing walls at neighbouring properties, to be capped with flat, heavy natural stone coping, and indicate the removal of the nib wall referred to be the heritage officer.
- 8.12 It is considered that the amended scheme would avoid the harm to the Conservation Area which has resulted from the existing works, subject to the approval of specific materials samples to be used for the facing wall and coping stones.
- 8.13 Subject to these details it is considered that the proposed amended scheme would sustain the significance of the Conservation Area, and would be acceptable in general design terms, and would therefore accord with local plan policies EQ6, EQ7, and NPPF paragraphs 199 and 130.

### **Public and Residential Amenity**

- 8.14 LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings to protect the amenity of the area. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.
- 8.15 Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for all existing and future users.
- 8.16 The nearest neighbouring buildings are the adjoining dwellings on either side of the application site and those on the opposite side of Bowden Lane.
- 8.17 Given the nature and scale of the works, it is not considered that they have harmed to the amenity of the occupants of these neighbouring buildings, including in terms of noise impact and other nuisance effects. The works therefore would comply with the objectives of policies EQ6 and E10 and paragraphs 130 and 185 of the NPPF.

### **Access, Parking Provision and Highway Safety**

- 8.18 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.



- 8.19 Paragraph 110 of the NPPF states that in assessing applications for development, a safe and suitable access to the site should be achieved for all users. Paragraph 111 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.
- 8.20 The updated comments from the DCC Highways officer are noted. The main concerns relate to the prospect of surface water draining from the parking space onto the road, due to the slightly higher level of the parking space above the carriageway.
- 8.21 The submitted plans indicate the parking space as being flush with the carriageway, which would limit the risk of surface water draining onto the road. Approval of the revised plans would require that the works be amended to accord with these plans. This would also resolve the concern regarding the existing situation presenting a trip hazard to pedestrians. Approval could also be conditional on approval and use of a specific permeable surface, to further reduce the risk of surface water run-off onto the carriageway.
- 8.22 Subject to the works being amended to accord with the revised plans within a set timescale, it is considered that the concerns noted by the highways officer would be satisfactorily addressed and therefore that the application would accord with local policy CF6 and NPPF paragraphs 110 and 111.
- 8.23 Public comments relating to the effects on other users of the lane, including emergency vehicles, are noted. As noted by the highways officer, any obstruction of the highway resulting from the use of the parking space would be a police matter.
- 8.24 Effects on vehicular access to other properties are a civil matter, separate to material planning considerations.
- 8.25 In any case, it is noted that at several points along the lane, residents' cars are parked fully within the carriageway. It does not appear that the use of the parking space for a passenger car would reduce the width of the available carriageway significantly more than at a number of other locations elsewhere along the lane.
- 8.26 Without a direct objection from the highways officer in relation to this particular matter, it is not considered that refusal on the grounds of highway safety could be sustained.
- 8.27 Given that partly retrospective permission is being sought, it is considered necessary and appropriate to impose a condition that the works be amended to comply with the details shown on the revised plans within a set time from the date of approval, to ensure that the existing arrangements are not permanently retained.

## **Other matters**

8.28 Public comments relating to the safety of the completed works and effects on structural stability are noted but do not relate to a material planning consideration. The comments from the building control officer confirm that the works undertaken to create the retaining wall do not comprise a dangerous structure.

## **Planning Balance & Conclusion**

8.29 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.

8.30 The application site lies within the built-up area boundary for Chapel and as such any alterations to existing residential buildings are considered to be appropriate in principle, subject to their acceptability in terms of all other relevant material planning considerations.

8.31 As proposed to be amended, and subject to approval of further details by condition, the development is acceptable in terms of residential amenity and would be acceptable in terms of effects on the Conservation Area, design and effects on highways safety. Provided that the revisions to the materials used in the retaining wall are completed within a reasonable timescale, it is considered that the development would sustain the heritage asset.

8.32 For these reasons it is recommended that permission should be approved, subject to the following conditions.

## **9. RECOMMENDATIONS**

**A. It is recommended that planning permission be APPROVED, subject to the following conditions.**

<b>Condition ref number</b>	<b>Brief description</b>	<b>Comment</b>
AP01	Development to be carried out in accordance with approved revised plans.	
NTSD	Approval of facing materials and parking surface within three months; compliance thereafter	
NTSD	Parking area to be flush with carriageway	

**B. RECOMMENDATION NO.2:** 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 Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications 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 an acceptable solution is now proposed and shown on the revised plans, the Council has acted in accordance with Paragraph 38 of the NPPF, which requires Local Planning Authorities to positively engage with planning applicants.

# Site plan

