

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

29th February 2024

Application No:	SMD/2023/0454	
Location	Land on NE side of Rivendell Lane, Leek	
Proposal	Erection of 1no. detached bungalow	
Applicant	Birchendel Holdings Ltd	
Agent	Rob Duncan Planning Consultancy Ltd	
Parish/ward	Leek / Leek East	Date registered 7 th Sept 2023
If you have a question about this report please contact: Arne Swithenbank tel: 01538 395578 or e-mail arne.swithenbank@staffs Moorlands.gov.uk		

REFERRAL

The application is a Full – Minor and is brought before the Committee due to previous applications on this plot having been determined by the Planning Applications Committee including most recently SMD/2023/0085 which was refused by the Committee at its meeting on the 8th June 2023 (item 6) and for which this application is a re-submission.

1. SUMMARY OF RECOMMENDATION

Approve

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The site is an un-developed but now enclosed parcel of land at the junction of Rivendell Lane and Birchall Lane, within the Development Boundary for Leek, as defined by the Local Plan Policies Map. A high metal hoarding has been placed around the roadside edges of the site approaching 2.5m in height and without consent.
- 2.2 The site is prominent due to being in a corner position overlooking the junction of the two lanes from raised ground. The location is characterised by 20th Century and more recent detached dwellings generally of large size in generous plots often with mature gardens with hedges and tree cover.
- 2.3 Birchall Lane is a public highway registered as a byway open to all traffic (BOAT). It serves private dwellings to either side for a further c.70m north east from the application site before emerging into fields where it continues to Lowe Hill on the Ashbourne Road.

- 2.4 Adjacent to the north west of the site is a relatively recent new-build dwelling named Haven View (SMD/2018/0321). The application site forms part of the approved curtilage of that dwelling but has not been incorporated with it as currently occupied. Dwellings on the opposite side of Rivendell Lane (to the west and south west) are at a lower level and are set down slightly from the road level. Some 5.0m above road level, on the north east side, the boundary of the application site is divided by a hedge from the extensive garden of its neighbour The Moorings.

3. DESCRIPTION OF THE PROPOSAL

- 3.1 This is a full planning application for the erection of a single storey 3-bedroom detached dwelling with outdoor amenity space and off-road parking. There would be an open plan kitchen/lounge, utility room, bathroom, three bedrooms and one en-suite. Vehicular access would be from Birchall Lane with driveway parking to the south east side of the house. External amenity space would comprise gardens and patios and includes land level changes. A retaining wall is proposed to the rear boundary.
- 3.2 The application is accompanied by a Planning Statement from the agent. In response to representations drawn to the applicant's attention by the LPA / Highways Authority a visibility splays drawing was submitted. In response to concerns raised by the case officer revised plans (1797-04 Rev A) were submitted 4th Jan 2024 described by the agent as incorporating:
- (i) Provision of a mound in the corner of the site at the junction of Birchall Lane with Rivendell Lane.
 - (ii) A new hedgerow to further screen the building.
 - (iii) Incorporation of slope above the retaining wall structure at the rear of the property, with associated landscaping also provided.

4. RELEVANT PLANNING HISTORY

- 4.1 SMD/2017/0038 – Proposed erection of 2 No. detached two-storey dwellings and new vehicular access – Refused
- 4.2 SMD/2018/0168 – Two detached, two storey dwellings. Resubmission of SMD/2017/0038 – Refused
- 4.3 APP/B3438/W/18/3210497 – Appeal against refusal of application SMD/2018/0168 Erection of 2 No. detached, two storey dwellings – Appeal dismissed
- 4.4 SMD/2018/0321 – Erection of detached dwelling – Approved
- 4.5 NMA/2020/0022 – Non-material amendment relating to SMD/2018/0321. Repositioning of the vehicular access, additional planting and erection of

dwarf wall and provision of visibility splay of 2.4m x 27m from the proposed access to the south east across the frontage – Approved

- 4.6 SMD/2021/0145 – Erection of 1No. Detached Dwelling – Refused
- 4.7 APP/B3438/W/21/3284785 – Appeal against refusal of application SMD/2021/0145 erection of 1No. Detached Dwelling – Appeal Dismissed
- 4.8 SMD/2023/0085 – Erection of 1no. detached bungalow – refused
- 4.9 The SMD/2023/0085 refusal reason was:

The positioning of a dwelling on this visually conspicuous corner plot would result in a development which would fail to improve or enhance the visual amenities of the surrounding area. The development would appear as an overbearing and over dominant form of development which is not in keeping with the street scene and character of the surrounding area, having particular regard to the prominent position of the site. The application is therefore contrary to policies SS1, H1 and DC1 of the Staffordshire Moorlands Local Plan (Adopted September 2020) and the National Planning Policy Framework including section 12.

- 4.10 An informative was added to say: Any future application for development on this site, which includes a new point of access, shall include information to demonstrate that the visibility splays required by the Highways Authority can be achieved.

5. PLANNING POLICIES RELEVANT TO THE DECISION

5.1 Local Plan (adopted 9th September 2020)

- SS1 Development Principles
- SS2 Settlement Hierarchy
- SS5 Leek Area Strategy
- H1 New Housing Development
- DC1 Design Considerations
- NE1 Biodiversity and Geological Resources
- NE2 Trees, Woodland and Hedgerows
- T1 Development and Sustainable Transport

National Planning Policy Framework December 2023

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 5 – delivering a sufficient supply of homes; 8 Promoting healthy and safe communities; 9 – promoting sustainable transport; 11 – Making effective use of land; 12 – Achieving well designed and beautiful places; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

Local Plan Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

6. CONSULTATIONS CARRIED OUT

Public

- 6.1 The last initial consultation expiry date was 13th October 2023 (site notice). A total of 10 neighbouring dwellings were notified directly by letter. However following the submission of the revised drawing (January 2024) a re-consultation took place with an expiry date for comments to be received at latest by 6th February 2024.
- 6.2 In response to the initial consultation representations raising objections were received from 15 individuals or households on the following grounds:
- misleading information, inconsistencies and omissions in the application
 - the application does not provide information to demonstrate that road safety visibility splays required by the Highway Authority can be achieved, as required by SMDC refusal SMD2023/0085 dated 15/6/23
 - Site Plan 1797-04 shows the road much wider than it is and does not show the crossing over of The Moorings access or the access to Birchendell directly opposite
 - the road measures on site 3.6m wide not 4.2m derived from the drawing
 - submitted plans don't show other nearby accesses in full and omit south kerb
 - the road narrowness is contrary to the framework para 110, and Highways own rules and guidelines where multi-dwelling access require a minimum road width of 4.2 metre
 - the Road Safety visibility splays cannot be achieved or overcome due to land outside the applicant's control
 - Links View is shown significantly out of its true position on the plan and not in accordance with other Ordnance Survey Mapping data supplied with the application. It is shown closer to the junction than it is.
 - the section drawings imply the proposed dwelling ridge height is at a far lower level than it actually is when viewed from the roadway
 - not demonstrated that drainage disposal flows for foul water or that surface water soak-away can be achieved to prevent run off onto the highway
 - trees and hedges not fully shown
 - planting conditioned under SMD/2018/0321 has not been completed
 - baseline for biodiversity net gain should be the restored site as per SMD/2018/0321
 - biodiversity net gain not demonstrated
 - planning records show the site of SMD/2018/0321 was only ever intended to accommodate one house and garden. That house 'Haven View' is now built. SMDC and the Planning Inspectorate have been consistent in the many

reasons of Refusals and Dismissals for not permitting a dwelling to be built in this garden

- the proposed dwelling on this corner garden site would be overbearing and fail to enhance the visual amenity or the character of the neighbourhood
- the proposal undermines original layout concept to give space at the location between 1930s Birchall Lane and 1960s Rivendell Lane
- the proposal does not conform to these building lines or the spacious housing pattern and density of the area – compare Links View 21m and the proposal 12m. Westerdale and new Birchendell also both 21m
- this revised proposal would be significantly closer to Rivendell Lane and Links View by approximately 2 metres more than was the previous refused application
- design lacks architectural detail and beauty; inconsistent references to materials; does not comply with the supplementary design guide
- directly facing principal windows at 14 metres, when the normal ruling would be a minimum of 22 metres
- panel boarded fence erected by the applicant is only 6 metres from the proposed dwelling principal windows
- the full height windows of Haven View stretching to roof height would cause the direct overlooking into and from the proposed dwelling that cannot be overcome
- too close to Links view for night time illumination from full height windows in this low ambient unlit area
- fails to comply with Space about Dwellings requirements to have a private amenity space of mean length of 11metres – the amenity space is only 6 metres.
- no meaningful planting and boundary treatment for screening that could be controlled
- does not provide sufficient useable private amenity space and would be directly overlooked by Links View and from the roadway.
- The parking area is shown on a gradient with cross fall. A level parking area with passing access is required for safe disabled access or egress. The entrances of the property should not be obstructed by bins or likewise. Part M4(2).
- Consistent refusals and dismissals have been issued for similar proposals and the most recent application should see no change to that given SMDC Planning Authority's own statement for SMD/2021/0145 "the positioning of A dwelling on this visually conspicuous corner plot would result in a development which would fail to improve or enhance the visual amenities of the surrounding area".
- Rather than accepting the appeal decision as final, the applicant has continued with their original plans to build two properties on their plot and has submitted a new planning application for Plot One that is not sufficiently different to the application already considered.
- This new application does not address the concerns raised by me, other local residents, the Council or the Planning Inspector.
- the further application is clearly driven by profit
- Like many other residents, we continue to maintain that there is no legal right of way to and from a dwelling on this site and therefore, the opening up of the boundary to create an accessway would create an unlawful access. Birchall Lane is a private lane owned by its frontagers. It has a designated status of a

byway open to all traffic (BOAT). As such this cannot be relied upon by the applicant to use access to and egress from the plot via Birchall Lane. Although the planners repeatedly say that this is a private matter, it is intrinsically linked to the grant of planning permission, the two are mutually dependent.

- we remember this site without hoarding. The loss of biodiversity on this site is another serious concern. The character of this neighbourhood is large houses set in large gardens, not higher density housing.

- As far as we were aware the proposed site was, following the approval of the current building on the site, designated for 'rewilding' ...a small but significant area of greenery... instead we have had trees and bushes cut down and unsightly barriers erected.

- essentially the same bungalow as the one refused but the ground level is to be reduced by 0.5 metre. However the footprint of the bungalow is moved several metres closer to Rivendell which will negate the reduction in ground level in terms of dominance. This effectively means that the application is the same as the previous one, therefore, for consistency should be refused again.

- in a previous appeal decision on the site the Inspector concluded that building a second dwelling "would amount to an over-intensive development inconsistent with the spacious character of the surrounding area" and "the harm that the proposed development would cause to the character and appearance of the area would be both significant and lasting." (SMD2018/0168)

- The applicant has tried to address older reasons for refusal, particularly the large and dominant scale of previously proposed houses. However, in the current application, the scale of the bungalow, both footprint and mass, have been reduced to such an extent that the proposed building is completely out of character with the rest of Birchall Lane which comprises large dwellings in spacious grounds.

- on previous consultations the committee has found/instructed that the applicant return the site to its former state. When will this be enforced?

- An earlier appeal APP/B3438/W/18/3210497 states one of the numerous reasons for dismissal was: 'Reason 6. With a corner location, Plot 1 would have access off Birchall Lane which rises to the north and is narrow at approximately 3 metre wide.'

6.3 In response to the re-consultation in January 2024 representations raising objection were received from a further three individuals / households though none of these commented beyond stating their objection. Six of the previous correspondents wrote again all confirming that their objections remained.

Leek Town Council

6.4 Responded to say that: Leek Town Council unanimously resolved to object to this application on grounds of overdevelopment and not being in character with the surrounding area. The proposed application for infill of a garden space originally designed to create the character of the area, is deemed un-neighbourly, having a detrimental effect to the surrounding neighbourhood. The development will result in the removal of mature trees whose presence, form part of the character of the area. Over development and infill of garden greenspaces will have impact on the environment and will cause loss to

biodiversity. Documentation studied by the Council has uncovered discrepancies in information and the Council would request that inaccurate plans and untruthful information presented are scrutinised by Planning Officers and the Planning Committee before a decision is made.

SCC Highways

6.5 The following is the Highways Authority consultation response.

Recommendation Summary: Conditional

Site visit conducted on 2nd October 2023

Background

The site is located on Rivendell Lane (Road No. D1289) an unclassified road at its junction with Birchall Lane (Byway Open to All Traffic – BOAT- Leek Town 25). Rivendell Lane has a 30mph speed limit.

Previous Applications:

SMD/2023/0085 - Erection of 1no. Detached Bungalow.

SMD/2021/0145 - Erection of 1no. Detached Dwelling.

SMD/2017/0038 – Proposed construction of 2 No. Detached two storey dwellings and vehicular access.

SMD/2018/0168 – Erection of 2 No. Detached two storey dwellings – re-submission of SMD/2017/0038.

SMD/2018/0321 – Construction of detached dwelling.

All applications were acceptable to the Highway Authority.

Appeals -

APP/B3438/W/21/3284785 - SMD/2021/0145.

APP/B3438/W/18/3210497 - SMD/2018/0168

Description of Proposal

Erection of 1no. Detached Bungalow

Comments on Information Submitted:

The proposal is to construct a detached bungalow on a parcel of land located to the northeast of Rivendell Lane, Leek. The proposed bungalow will comprise of a kitchen / lounge area, 3 bedrooms (1 bedroom with ensuite), bathroom and hallway.

Access

The proposed property will be accessed via a new access off Birchall Lane.

Parking

The proposed property will have off-highway parking. Staffordshire Moorlands Parking Standards state: Detached/Semi-detached property of 3 bedrooms will require 2 spaces (2.4 x 4.8m each space) for residents and visitors within the curtilage of the dwelling. The proposal meets with the Parking Standards

providing off-highway parking for 2 vehicles as detailed on submitted Drawing Ref: 1797-04.

Birchall Lane is approximately 4.2 metres wide at the section of the proposed access point, it continues in a north-easterly direction and serves several residential properties. It is noted in Appeal Decision APP/B3438/W/18/3210497 for SMD/2018/0168, the inspector did not consider access to be an issue, it was simply noted that Birchall Lane is narrow. Appeal Decision APP/B3438/W/21/3284785 for SMD/2021/0145, no highway issues were raised by the inspector.

There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:

The development hereby permitted shall not be brought into use until the access to the site within the limits of the public highway has been completed.

The development hereby permitted shall not be brought into use until the visibility splay shown on Drawing Ref:1797-05 has been provided. The visibility splay shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been surfaced and thereafter maintained in a bound and porous material for a minimum distance of 5m back from the site boundary in accordance with details to be first submitted to and approved in writing by the Local planning authority.

The development hereby permitted shall not be brought into use until the parking area has been provided in accordance with submitted Drawing Ref:1797-04. The parking area shall thereafter be retained unobstructed as parking area for the life of the development.

REASONS

ALL: To comply with NPPF; to comply with SMDC Core Strategy policy DC1; in the interests of highway safety.

IMPORTANT INFORMATIVE TO BE INCLUDED ON DECISION NOTICE

Please note that prior to the access crossing being constructed, a Section 184 Notice of Approval from Staffordshire County Council is required. Please email trafficandnetwork@staffordshire.gov.uk for further details. The link below provides an overview of the permissions and licences required for undertaking work on or adjacent to the adopted highway:

<https://www.staffordshire.gov.uk/Highways/licences/Overview.aspx>

Note to planning officer:

It is noted in Appeal Decision APP/B3438/W/18/3210497 for SMD/2018/0168, the inspector did not consider access to be an issue. It was simply noted that Birchall Lane is narrow. Appeal Decision APP/B3438/W/21/3284785 for SMD/2021/0145, no highway issues were raised by the inspector.

Revised information received on 16/01/2024 (Drawing Ref:1797-04 Rev A–02/01/2024 – add landscape mound to southern corner, reduce mass of retaining wall to rear of property) does not propose changes to the application that would cause a detrimental effect on the adopted highway comments/conditions previously applied (as above) Form X dated 18/10/2023 still apply.

SMDC waste collection services

- 6.6 No issues regarding waste collections.

SMDC Environmental Health

- 6.7 Potential areas of concern: construction impacts; land contamination; lighting impacts; and drainage. The latter noted as a Building Regulations matter. Conditions recommended in relation to the first three. The proposed development is close to residential properties so we would advise the following timings and pollution control measures are placed on any permission granted in order to protect local neighbourhood amenity and environmental quality – five conditions recommended in total, plus informative: limits on timing of noisy activities during development work; measures to limit pollution during construction; measures in the event of encountering unexpected contamination; no top soil to be imported until tested and confirmed suitable in accordance with a methodology to be first submitted and agreed; artificial lighting not to increase pre-existing illuminance.

Severn Trent Water

- 6.8 No objection subject to condition that the development hereby permitted shall not be commenced until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority, and that the scheme shall be implemented in accordance with the approved details before the development is first brought into use. Reason: This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution. Also add informative re possible un-mapped public sewers on the site.

7. POLICY AND MATERIAL CONSIDERATIONS / PLANNING BALANCE

Principle of Development and Main Issues

- 7.1 In its general approach, in accordance with policy SS1, the Council expects the development and use of land to contribute positively to the social, economic and environmental improvement of the Staffordshire Moorlands. When

considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. This means that planning applications that accord with the policies in the Local Plan shall be approved without delay, unless material considerations indicate otherwise.

- 7.2 The site is located within Birchall, which lies within the Development Boundary for Leek, as defined by the Local Plan Policies Map. Policy SS2 of the Local Plan sets out the settlement hierarchy for the District and identifies Leek as being one of the three identified towns where the spatial strategy seeks to focus future growth and to strengthen their role as service centres. Policy SS3 relates to the future distribution of development and confirms that provision will be made for at least 6080 dwellings over the plan period, to be distributed in accordance with the spatial strategy, where Leek will provide 30% of housing provision. The latest five year land supply statement as of 1st April 2023 indicates a 3.58 year supply for Staffordshire Moorlands.
- 7.3 Policy SS5 sets out the Leek Area Strategy and confirms that the Council will continue to meet the housing and community needs of Leek and its rural hinterland through, inter alia, supporting the development of new housing on sustainable sites within the Development Boundary. Policy H1 states that housing development on sites not allocated for such purposes, will be supported within the development boundaries of the towns and larger villages, subject to compliance with the Spatial Strategy and wider Local Plan policies.
- 7.4 The principle of housing development on this site, which lies within a sustainable location within the Development Boundary for Leek, is considered to be acceptable. In this instance, as detailed above in the Planning History, the application site has been subject to a number of planning applications for the erection of a dwelling.
- 7.5 The most recent preceding applications are SMD/2021/0145 and SMD/2023/0085. Each of these proposed the erection of 1 detached dwelling on the land. SMD/2021/0145 was considered at the Planning Applications Committee on 12th August 2021, with Officers recommending refusal. Members determined to agree with the recommendation and the application was subsequently refused for the following reason:
- The positioning of a dwelling on this visually conspicuous corner plot would result in a development which would fail to improve or enhance the visual amenities of the surrounding area. The development would appear as an incongruous and imposing built feature within an otherwise open and spacious area to the detriment of the street scene and character of the surrounding area. The application is therefore contrary to policies SS1, H1 and DC1 of the Staffordshire Moorlands Local Plan (Adopted September 2020) and the National Planning Policy Framework including section 12.
- 7.6 As noted at 4.9 (above) SMD/2023/0085 was also refused by the Planning Applications Committee although this time the officer recommendation had been for approval.

7.7 The refusal of SMD/2021/0145 was subsequently appealed. The Inspector dismissed that appeal on 29th April 2022 finding that the development would have an unacceptable effect on the character and appearance of the area.

7.8 An earlier application for two dwellings on the site (and adjacent land) was considered under planning application SMD/2018/0168. The application was considered at the Planning Applications Committee on 12th April 2018, with a recommendation to refuse the application. Members agreed with the Officer Recommendation and refused the application on the following grounds:

The positioning of two dwellings on the site results in an overdeveloped plot which is out of keeping with the identified spacious character and appearance of the surrounding area. By reason of the bulk (including height) and positioning of the dwelling within Plot 1 the application would result in a development which would fail to improve or enhance the visual amenities of the surrounding area. The proximity of the Plot 1 dwelling house to the highway, together with the wide road frontage and raised site land levels would result in the proposed development appearing as an incongruous and imposing built feature within an otherwise open and spacious area to the detriment of the street scene and character of the surrounding area. The application is therefore contrary to policies SS1a and DC1 of the Core Strategy Development Plan Document (26th March 2014) and the National Planning Policy Framework including chapter 7 'Requiring Good Design.'

7.9 That decision was also the subject of an appeal with the Inspector dismissing the appeal on 28th January 2019 due to the impact on the character and appearance of the area arising from Plot 1 (the application site). Prior to the decision of the Planning Inspector, planning permission was granted for the erection of a dwelling on the adjacent land (Plot 2 – known as Haven View), under planning permission SMD/2018/0321 – now built.

7.10 As detailed above, the principle of housing development on this site is in accordance with the Development Plan. The prevailing issue surrounding development on this land is the effect that the development would have on the character and appearance of the area.

7.11 In recommending approval of the most recent proposal on this site (SMD/2023/0085) the planning Case Officer gave consideration to the Inspector's reasoning in relation to the dismissed appeal for SMD/2021/0145 and concluded:

It is considered that the reasons for refusal/dismissal of the most recent application/appeal have been addressed through the proposed redesign of the proposals. It is considered that the scale, siting and design of the proposed dwelling, along with its relationship with the adjacent public highways would integrate more sympathetically within the area and would respect the pattern and grain of development. Consequently, it is not considered that the development would cause harm to the character and appearance of the area. It would be necessary for certain permitted development rights for extensions, roof

alterations and outbuildings to be removed, to ensure that the LPA retains control over further development at this site in the interests of the character and appearance of the area.

- 7.12 Given the Committee's contrary view in refusing SMD/2023/0085 it is appropriate to re-visit the appeal decision for SMD/2021/0145. In the aspect to Rivendell Lane the dismissed appeal dwelling had a built height of between 6.3m and 7.0m; would have stood about 1.8m up from Rivendell Lane level and was set back by about 6.6m from the back of pavement line.
- 7.13 At paragraph 7 of the SMD/2021/0145 appeal decision the Inspector observed that the dwelling's *"T" shaped design results in the proposed dwelling being located closer to Rivendell Lane. The site's frontage with Rivendell Lane is particularly wide and exposed, and as a result the proposed dwelling would appear as an overly dominant feature within the street scene when viewed from Rivendell Lane*". The revised scheme now before the committee would have a built ridge height of c.5.3m and would be set up from Rivendell Lane level by about 1.5m. It would be positioned between 9m and 9.8m back from the back of pavement line on Rivendell Lane. The building would have a single linear form with elevation and roof ridge more-or-less parallel with the lane.
- 7.14 At paragraph 8, the Inspector observed for the dismissed appeal that the *"ridge height of the proposed dwelling would be 6.9 metres, marginally lower than that of the adjacent Haven View. However, whilst the ridge heights would be comparable, Haven View is located significantly further away from the junction of Rivendell Lane and Birchall Lane and consequently does not appear as imposing or take up a prominent position within the street scene as the appeal proposal."*
- 7.15 As noted, the overall ridge height of the dwelling now proposed is set at c.5.3m. The finished floor level (FFL) of the appeal scheme was set at 181 AOD and in the latest refused scheme was at 180.45 AOD (about 0.5m lower). FFL is now lower again at 179.85 AOD (about 1m lower than in the dismissed appeal).
- 7.16 At paragraph 9, the Inspector observed that *"Although... ground levels would be lowered slightly, the dwelling would still retain an elevated position above both the highway and existing properties"*, and that, *"the corner plot location and wide frontage... exacerbates the imposing and overly dominant nature of the development, which would be at odds with the prevailing character and appearance of nearby residential properties"*. At paragraph 10, the Inspector considered that *"The proposed dwelling would stand proud and be visible above the height of the current security fencing"*.
- 7.17 For the latest refused scheme the case officer had felt able to recommend approval based on the various reductions in height, mass and building complexity.
- 7.18 It is relatively easy to see how the refused scheme would be less imposing and less 'awkward' and consequently preferable to a degree than the dismissed appeal scheme. At the same time there is little that can be said to deny that this

is a visually conspicuous corner plot and the addition of built development on this plot will in turn struggle not to be visually conspicuous. In response to the committee's refusal the applicant has sought to further minimise the visual prominence of the building with further adjustments to heights and levels.

- 7.19 The main issue to consider with this application is the effect of the proposed development on the character and appearance of the area. Consideration must also be given to possible impacts on neighbour living conditions and highways.

Design – impact on character and appearance

- 7.20 The site would occupy what is in its undeveloped state a gently rising shoulder of ground which reaches a crown point along its north east hedge-line boundary. The natural repose of the land as it rises from its Birchall Lane and Rivendell Lane boundaries is currently somewhat obscured by the high security shuttering. The proposal as first submitted made an attempt to overcome intrusive prominence found unacceptable in previous schemes by further cutting away of the site to lower the site development level and by reduction of the building height. In part the reduced building height is achieved with a shallower roof pitch. These measures are effective in bringing the building down, closer to Birchall Lane and Rivendell Lane levels, but the effect is a more squat somewhat mundane building set within a necessarily engineered site of constructed retained terracing at the rear. Levels would be ramped in stages from the lane boundaries and would need to be banked or otherwise retained against the Haven View side boundary.
- 7.21 The application as first submitted had proposed hedge screening to the roadside pavement / verge boundaries. However the development would still stand conspicuously visible and the screening effects overall would be limited in benefit.
- 7.22 Representations made by residents have argued rather cogently that the site is at a pivotal juncture of the more capacious verdant gardens of dwellings on Birchall Lane and the trend towards more tightly regimented dwellings along Rivendell Lane. The application site does indeed seem to act as a bulwark between the two.
- 7.23 The agent was advised that the initial scheme under this application was not seen to successfully address the Committee's most recent refusal. This has led to the submission of the now further revised scheme 1797-04 Rev A. The key change has been to introduce an embanked corner bund flanking Rivendell Lane and rounding into Birchall Lane. This would allow, in addition to the boundary hedge at roadside level, a second higher level hedge on the top of the bank. The bank is shown grassed or otherwise vegetated and would provide space for modest tree planting. By this means some sense of the original vegetated rising ground could be retained.
- 7.24 A further change in detail has been applied to the rise in the ground at the rear of the plot (towards the boundary with The Moorings). Here there would still

need to be an underlying engineered construction to support the higher land once cut away for the dwelling but the application proposes a vegetated slope to be installed between the necessary underlying revetments.

Amenity

- 7.25 In terms of living conditions of neighbouring occupiers, the main considerations relate to the adopted Space About Dwellings standards and whether there would be sufficient separation between any principal windows and whether the building could be overbearing.
- 7.26 There are no windows facing Haven View and whilst Haven View faces out over the site from the side hall – not a principal window – this is at a distance of 16m. This comfortably exceeds the 14m guideline separation for flank walls. As the proposal dwelling would be well set down and single storey it could not be considered overbearing on Haven View.
- 7.27 The proposal dwelling presents windows serving the living room and also a bedroom facing south west over Rivendell Lane. These should be assessed as principal windows and the Council's Adopted Space About Dwellings guidance expects a minimum separation distance of at least 22m. Facing the Rivendell Lane elevation of the proposal site at a flared angle of greater than 90 degrees is Links View. This is set down slightly from road level and set back by 8m at its closest (northern end). At its southern end it is set back some 16m from the road. Relative to the proposal dwelling the separation distance would be 26m at the closest (northern end) widening to in excess of 30m at the southern end as the alignments flare apart. These distances comfortably exceed the minimum expected separation guideline of 22m.
- 7.28 Taking note of the levels, the proposal scheme would have a floor level of 179.85m which would be about on a level with the ground floor eaves height of Links View. The first floor or dormer windows of Links View (set further back by about a metre) would look obliquely towards the ground floor principal windows of the proposal. Again as noted, the minimum, guideline separation distances are comfortably exceeded and despite the differences in levels it is unlikely that either property could be found overbearing towards the other.
- 7.29 The proposal dwelling would have a gross internal floor area of 105m². For a single storey three bedroom 6 person dwelling the Nationally Described Space Standard advocates a minimum of 95m² and this standard is therefore met in this scheme.
- 7.30 With a plot size exceeding 600m² the proposal would have well in excess of the Council's minimum 65m² garden space guideline. Although garden depth would not reach 11m from the dwelling at any point in the layout the house is shown 9m back from Rivendell Lane and 10m from its Birchall Lane boundary. Adequate outside amenity space is provided.

Highways

- 7.31 Several points of detail are raised by objectors about the Highways access arrangement and plan measurements. In comments accompanying the submitted visibility splays drawing the agent has said: *“Please be aware that there are restrictive covenants on the land to the north which requires the land to be kept open. The access arrangements proposed are identical to those which have been considered, and approved, under all the previous applications (and twice considered and found acceptable at appeal) and thus I trust this matter can now be considered resolved.”*
- 7.32 Notwithstanding that there may be disagreement from the objectors about the measurement details submitted, the points made by the agent are relevant and must be noted. The Highways Authority finds the lane to be 4.2 metres wide at the section of the proposed access point (though scaling wider from plan) and finds this satisfactory also noting that the access was not found to be an issue from the appeals.
- 7.33 It is true that in appeal decision 3210497 for SMD/2018/0168 the Inspector commented in their reasons: “6. With a corner location, Plot 1 would have access off Birchall Lane which rises to the north and is narrow at approximately 3 metres wide.” However this appears to have been part of a character and appearance concern and nowhere was road safety / highway access identified as an issue by the Inspector noting also paragraph 25.

Other matters

- 7.19 The report in the issues discussed should be found to have covered the majority of the criticisms of the scheme raised in the representations. The inclusion of this site in the proposed and approved garden to Haven View does not preclude this application being put forward. The scheme as subsequently implemented for Haven View can be seen to have retained adequate amenity space and a suitably sized plot. The ability or otherwise of the applicant to gain a right of access from Birchall Lane is a private matter. If that ability were to fail for example by successful challenge from the rights holders the development could not proceed.

8. Conclusion and Planning Balance

- 8.1 Inspectors in the earlier appeal decisions have seen this corner plot in its undeveloped state to be of sufficient importance to the character and appearance of the location to find that the developments proposed were unacceptably harmful. Some of their reasonings were based on scale and form of the dwellings but it is also apparent that the verdure of this corner was a significant factor in their findings. It may be concluded that issues of scale and prominence are largely addressed in this latest submission but to achieve this there are some compromises especially in the necessarily engineered back edge and by lowering the site base level resulting in the near elimination of any

sense of the gently rising shoulder of ground that previously characterised the location.

- 8.2 The revisions submitted now add a green overmantel to the engineered terracing at the rear and re-model the corner of the site where it is prominent in the approach up Birchall Lane to give a green bank, hedged both at road boundary level and on a parallel, higher level, within the site. Importantly, this gives space for medium sized tree planting on the embankment in the space between.
- 8.3 Taking the above into account it is possible to reach a finely balanced conclusion in favour of the scheme. There are no overriding adverse effects on amenity or for highways access. The scheme delivers an additional dwelling in the Leek town development boundary at a time when the Council cannot demonstrate a five year housing supply.

9. RECOMMENDATION

A. Approve subject to the following conditions:

- 1. Time commencement**
- 2. Plans**
- 3. Materials**
- 4. Highways as per SCC HA**
- 5. Landscape planting specification**
- 6. Implementation of garden levels prior to occupation / and to be retained**
- 7. Implementation of planting within first season following completion / occupation – and to be retained**

Informative

- 1. 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.**

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 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

10. APPENDICES TO THE REPORT

10.1 The link below to the Council's website is where the detail of this application can be viewed.

<http://publicaccess.staffs Moorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=173964>

