
Delegated report Officer: Teresa Turner

Application ref. DMPA/2021/1671

Relevant Demolition Consent for the demolition of a roadside garden wall and the erection of a replacement wall at The Old Rectory, Unnamed Road From Butterpot Lane Through Trusley To C45, Trusley, Ashbourne, DE6 5JG

Valid date: 01/11/2021

Consults expired: 07/01/2022

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

9/2017/0285 – The demolition and replacement (to current height) of a roadside wall – Householder planning permission granted on 26th May 2017.

9/2017/0420 – Relevant demolition consent for the demolition of a boundary wall – Relevant demolition consent granted on 26th May 2017.

The above applications both expired on 26th May 2020 and the approved works remain unimplemented.

The Business and Planning Act 2020 temporarily modified the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 to enable certain planning permissions and listed building consents in England which had lapsed or were due to lapse during 2020 to be extended. This is in recognition of the effect coronavirus has had on the planning system and the construction sector and in particular the delays it has caused to the commencement of new development. This extension would allow the commencement of the planning permissions and listed building consents without the need for a new application.

Unimplemented planning permissions with time limits for implementation which passed between 23 March 2020 and 19 August 2020, would be restored under the current legislation and the time limit extended to 1 May 2021, subject to Additional Environmental Approval being granted.

DMOT/2020/0967 – Additional Environmental Approval (AEA) for permission ref. 9/2017/0420 and relevant demolition consent ref. 9/2017/0285 (relating to the demolition and replacement to the same height of a roadside wall) – application approved by Committee on 21st October 2020 as an AEA is not an application type that is covered by the Council's scheme of delegation.

The approved works were not commenced before 1st May 2021 and as such all previous approvals have now lapsed.

Responses to consultations and publicity

None received.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets), Policy INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Trusley Conservation Area Character Statement 2014 (CACS)
- Highways Development Control (CHA) – Standing Advice for Local Planning Authorities

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- The impact on the character and appearance of the conservation area; and
- The impact on highway safety.

Planning assessment

Planning permission is required by virtue of Class A of Part 2 of Schedule 2 of the 2015 General Permitted Development Order as the affected wall is over 1m in height adjacent to a [non-classified] highway used by vehicular traffic. Relevant Demolition Consent is required as the existing wall that is to be demolished is over 1m in height adjacent to a highway in a Conservation Area.

The impact on the character and appearance of the conservation area

The host property is located within the rural village and conservation area of Trusley and has been identified as a building that contributes positively to the character and appearance of the conservation area in the Adopted CACS. The existing wall has not been identified as a positive feature and is of no historic or architectural merit.

The existing wall is a mix of 19th and 20th Century bricks and many of the lower ones are badly spalled. The wall has no foundations and is currently bulging and therefore unsafe. The level of spalling makes most of the existing bricks unsuitable for re-use which has been confirmed by the builder that will be carrying out the work.

The proposed replacement wall would be built on the same alignment and to the same height as the existing using Ibstock Birtley Townhouse A2623 bricks – photographs of the sample panel against the original brick wall in different light conditions have been provided by the applicant via email on 17th January 2022. The applicant has advised that the selected brick matches most of the existing bricks. Conditions will be imposed relating to use of this brick, mortar and inner buttresses.

It is considered the proposal would cause no harm to the character and appearance of the conservation area and would therefore be considered to achieve the desirable objective within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such, the proposal is considered to conform to the requirements of the NPPF and the objectives of Policy BNE2 of the LP1 and BNE10 of the LP2 in that the significance of the heritage asset would not be harmed.

The impact on highway safety

The proposed replacement wall would be built on the same alignment and to the same height as the existing wall which is set just beyond the grassed verge of the public highway. The existing access

point which the current wall frames has been stopped up in accordance with a condition (3) on the planning permission for the adjacent detached garage/garden store (ref. 9/0887/0369) and is not used by vehicular traffic to access the site.

As such, the replacement of the existing wall in a like for like fashion would not have any increased impact on highway safety in accord with the requirements of Policy INF2 of the LP1. In line with the CHA standing advice for boundary structures and other means of enclosure, the proposal would not involve alterations to an existing vehicular access where visibility splays need to be maintained and as such a consultation to the CHA was not deemed necessary.

Amenity

It is considered the proposal would comply with the requirements of the NPPF and with the objectives of Policy BNE1 of the LP1 and Policy H27 of the LP2 in that the development would not be considered to harm the existing street scene or the general character of the area and, being a non-habitable structure, would not be unduly detrimental to the living conditions of adjoining properties.

It is considered the proposal would conform to Policy SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

Conclusion

It is considered the proposal would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

Recommendation

Approve with Conditions

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	23/02/2022
Report agreed:	23/02/2022
Authorised officer:	Emma Palmer-Barnes
