JHld/P19-1174

24 October 2022

Sarah Pearce
Planning Officer
Town Hall
Ripley
Derbyshire
DE5 3BT

Dear Sarah

Lapwing Farm, 109 Hazelwood Road, Duffield

Please find enclosed a set of amended plans for the replacement dwelling at Lapwing Farm.

The amended plans in the main part revert to the design concept of the approved replacement dwelling pursuant to planning permission AVA/2020/0081 subject to some very minor changes as follows:

- A reduction in the barn wing of the replacement dwelling.
- A minor amendment to the roofline of the glazed link between the house and the barn wing.
- A redesign and reposition of the garage building including the utilisation of all of the first floor and the installation of rooflight windows.
- The repositioning of the dwelling and amendments to the parking forecourt.

Background

Planning permission was granted in 2020 for a replacement dwelling at Lapwing Farm under reference AVA/2020/0081. All pre-commencement conditions of the permission have been discharged and the permission implemented through the demolition of the original dwelling (known as Lapwing Farm) and the implementation of the drainage and sub-base of the realigned access drive. The applicants then paused the commencement of the construction of the dwelling because of some personal family reasons.

The application site lies within the Derby-Nottingham green belt as defined on the proposals map of the Adopted Amber Valley Local Plan 2006.

The Proposal

After some careful consideration the applicants wish to amend the design to create a slightly smaller and modified version of the replacement dwelling that was approved in 2020. There are

four key amendments to the design of the replacement dwelling. Reductions are shown in dashed red lines on the attached drawings.

The Barn Wing

The amount of floorspace within the barn wing has been reduced in two areas. The single story glazed lean-to has been removed from the north-west elevation and the overall length of the barn wing has been reduced through a reduction at the north-east end. These reductions simplify the overall design concept and significantly reduce the floorspace and volume proposed. Care has been taken to ensure that the north-west elevation remains reflective the local agricultural vernacular. Particular care has been taken to ensure the fenestration arrangements reflect those typical of a two storey Derbyshire stone barn.

The Roofline of the Glazed Link

In the approved design the glazed link extended forward of the front elevation of the farmhouse and as such the roofline was not supported. Rather than maintain the eaves line and allow this glazed mass to dominate the elevation, the glazed link has been stepped back and a split eaves lines has been added to the north-east elevation. This results in a minor reduction in volume and floorspace and ensures that the architectural statement of the principal dwelling (the farmhouse) and the barn are not compromised.

The Redesign and Repositioning of the Garage Building

Following the reduction in the length of the barn wing, and to avoid the garage building standing in isolation to the dwelling, the garage building has been repositioned closer to the dwelling. Furthermore, the design of the garage has been amended by way of flipping its form through 180 degrees, thus presenting its lower eaves line to the north-east. The revision ensures that the garage is read as cluster of buildings with the farmhouse, reflecting the original and now demolished dwelling that exited on the site. The two garage doors have been removed from the north-west elevation and placed on the south-east elevation to ensure the garages are located within the half-courtyard and to ensure they are more useable to the applicant. The removal of the domestic scale garage doors from the exposed north-west elevation aligns with the overall concept discussed above of simplifying and reflecting the character of a typical Derbyshire stone barn.

There has been a minor increase (41mm) in the eave height to the south-west elevation to facilitate the installation of a useable first floor access door. Unlike the approved scheme all of the first floor of the garage is now to be used for storage, noting that there is no loft space within the dwelling or barn wing because of the low eaves heights and open ceiling designs proposed.

The overall footprint of the garage remains unchanged and the modifications to the garage design complements the wider architectural theme and visual impact.

The Repositioning of the Dwelling and Amendments to the Parking Forecourt

The overall position of the dwelling within the site has been amended slightly. The proposal is now skewed/turned slightly to the south than it was originally approved. Usefully, this revised position better corresponds to the position of the original dwelling (now demolished) at the site. Through the changes already discussed, particularly the tight clustering of the dwelling, barn and garage

elements, the repositioning reflects the overall design character and historical position of development on the site.

Overall Assessment of Floorspace & Volume

	Approved GIA (SQM)	Proposed GIA (SQM)	GIA Difference (SQM)	Approved Volume (M3)	Proposed Volume (M3)	Volume Difference (M3
Dwelling	539	459	-80	1837	1712	-125
Garage	200	197	-3	583	551	-32
Total	739	656	-83	2420	2263	-157

Overall, there is a reduction in the proposed floorspace and volume compared to the approved scheme. Please note that the figures quoted in the officer report for the approved scheme differ to those stated above. Regrettably, it would appear that the former architect had miscalculated the size of the proposal.

Appraisal

Para 147 of the National Planning Policy Framework confirms that ***'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'.*** Furthermore, para 148 confirms that ***'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'***. Finally, para 149 confirms ***'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt'***.

As discussed above, planning permission exists for a replacement dwelling at the site. This permission has been lawfully implemented and is extant. The presence of this extant permission represents a fall-back position in planning law consistent with the judgement in the case of ***The Court of Appeal in Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314.*** In this judgement Lindblom LJ confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were:

> *the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice;*
> *there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.*

On the basis that permission exists, and it has been implemented, there is a very real prospect that if the S.73 application is not approved, the applicants will revert to and build out under the extent permission. Accordingly, the fall-back is a significant material consideration in the determination of this application.

Having established that a fall-back position exists, is necessary to consider whether the proposals result in any further harm to the openness of the green belt. Given the nature of the revised proposals, their reduction in floorspace and volume and the changes in siting of the various elements to better cluster the development, there is no harm to the openness. No ridge heights have increased and thus no case for and noting the general planning assertion that a S.73 application is merely modifying and existing permission, the S.73 application and revised scheme demonstrates ***'very special circumstances'.***

Conclusion
The amended plans provide for a more compact and regularised form of development at this site. They are smaller in floorspace and volume and are presented as very special circumstances to green belt policy. The scheme maintains and refines the high quality design approach and should be approved without delay.

Should you require any further information in your consideration of the application please don't hesitate to contact me.

Yours sincerely

