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To: [Planning Comments \(SMDC\)](#)
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Application Reference No. : SMD/2017/0130 Site Address: Deepdale Birchall Lane Leek Staffordshire ST13 5RA Leek

Comments by: Mr & Mrs B L Daly

From:

Phone:

Email:

Submission: Objection

Comments: FAO : Chris Johnston

Dear Sir,

Application Number SMD/2017/0130, Deepdale, Birchall Lane, Leek

We have two key points to raise in objection to the above planning application:

1. This proposed development is *an over development* of the garden at Deepdale with an *over enhancement* of the right of way
2. This proposed development will significantly change the nature of the neighbourhood.

The adverse economic, environmental, health and social consequences of this proposed development are major and far out way any benefit to the town of Leek and this unique neighbourhood.

The Neighbourhood

Birchall Lane is historically a prestigious, private, semi rural residential area. The nature of Birchall Lane is defined by the following main characteristics:

The Lane is privately owned by each of the frontagers. The main section of the Lane from Cheddleton Road to the entrance to the field up to Ballington is a BOAT. However, the limb of the Lane that branches off to the right from Three Ways to Deepdale is not subject to access by all vehicles. Instead, access requires a legal right of way.

There is a deep grass verge beyond the boundary structure to every dwelling and each owner is obliged to maintain it as a grass verge. Parking on the grass verges is not permitted.

Every house on Birchall Lane is set back from the Lane and has a significant frontage (with the exception of the execrable new development in the front garden of Westerdale).

Every house on Birchall Lane (again except that in the front garden of Westerdale) has a driveway and sufficient parking for several cars within its boundary.

Low density housing with privacy, openness, and peace and quiet (again except for the abomination of a development at Westerdale with large windows overlooking and offending all)

To quote from a local estate agent's particulars of a property recently for sale in the Lane, Birchall Lane is arguably one of the best addresses in the area. (<http://www.buryandhilton.co.uk/for-sale/item/26421545-birchall-lane-leek-staffordshire>).

This unique neighbourhood in Leek will be changed by this proposed development and any other such developments of new dwellings built in the gardens of established residences.

Access, Highway Safety, and Over Enhancement of the Legal Right of Way

The location plan and site layout submitted with the application misrepresents the width of the Lane particularly the right hand branch leading to Deepdale. The grey shading of the Lane to Deepdale suggests a similar width to the A520. In fact, the right hand branch of the Lane is single file, flanked by deep grass verges owned by some of the frontagers, with no passing places. The Highway Safety section of the Applicants' Planning Statement, wrongly states that '...there are opportunities along it for two vehicles to pass should the need arise'. Two vehicles cannot pass on this limb of the Lane from the midpoint of Newton to Deepdale.

It is unacceptable for planning permission to be granted on the basis that the only passing places along this stretch of the Lane is in the entrance to private driveways or mounting the privately owned grass verges. There is no legal right of way on this basis. If two vehicles meet, one must either reverse back down to the main Lane or back towards Deepdale.

Highway safety is paramount for all residents especially for families with children, and for those who are elderly or disabled. This limb of the Lane was never designed to serve so many additional properties nor to withstand the related increased volume of traffic (5 additional vehicles are detailed in section 10 of the Applicants' Application Form). If more vehicles are authorised to use this limb of the Lane, there will be a heightened risk of serious personal injury and damage to property. It is not safe to walk on the Lane with increased vehicles, and pedestrians must trespass on grass verges to try to keep safe. Also, if there is insufficient parking within plots for residents and visitors cars, vehicles may be parked on the Lane or grass verges contrary to title restrictions. This is already happening on the Westerdale site as feared by the objecting neighbours. It creates a serious road safety hazard for pedestrians and vehicles alike; it is a significant change to the look of the neighbourhood; and it contributes to the reduction in property values.

As well as highway safety, the increased volume of traffic would give rise to increased noise and pollution; and cause a nuisance to residents trying to get up and down the Lane, encountering vehicles and having to reverse up and down the Lane to gain access to and egress from their private dwellings. Such negative impact on

neighbourhood amenity is not sustainable development that accords with the development strategy for the District as asserted by the Applicants in their Statement. It would create stress and disharmony in the neighbourhood.

Another major concern to many neighbours and owners of the Lane, is agreeing the repair and maintenance obligations and costs of keeping the Lane in a safe condition to drivers and pedestrians. It seems grossly unfair for owners of the Lane to bear the cost of repairing damage to the Lane by additional users, and also to be exposed to the risk of occupiers liability if anyone is injured or property damaged on their section of the Lane. The Applicants have demonstrated total disrespect to neighbours property and privacy by the proposed development without any consideration to these responsibilities.

Para 10.15 'Highway Safety' is the Applicants shortest paragraph in its Statement yet it is arguably the most important issue to be considered. The matter of private access must be fully investigated and understood. Deepdale has already enhanced its right of way over this limb of the Lane with the additional dwelling at Oakhurst. Any further enhancement would be an over enhancement. Therefore, the Applicants would need to agree legal rights of way with each of the owners of the Lane if they wish to proceed with their proposed development. Clearly this is a matter of title but relevant to planning especially when the matter of access is unreserved. We own a significant part of the Lane leading to Deepdale and we will not agree to grant any right of way over our land to additional dwellings on Deepdale.

Other issues

There are numerous other adverse impacts of granting permission for this proposed development including:

• Damage to the Lane, and potentially to services under the Lane such as drains and water supplies, and to overhead power and utility services by increased usage, and use by heavy machinery and delivery vehicles.

We seek your full reassurance that the connection, and the capacity and use of the drains and all other services, will not, in any way, be adversely affected by the Applicants proposed development.

• Damage to trees and wildlife

The sight and sound of trees and wildlife including bats, garden birds, birds of prey and many owls, is a particular benefit of living in this semi rural location. The loss of trees and open spaces would have a significant negative impact on our local environment down to insects being lost which will impact on bird life and the food chain. The scene of the Lane has already been changed by the removal of 2 large beech trees at the entrance to the development site prior to this application being made. Also, at least 2 other large trees in the grounds have very recently been removed.

• Loss of privacy, peace and quiet, and negative impact on use and enjoyment of private residences.

No doubt that when you inspected the site, you appreciated the peace and tranquility of the location particularly, at the top end of the private no through limb of the Lane that was never designed to be a mini estate. Neighbouring properties will be adversely affected in various ways including restricting light; dramatically increasing the noise and activity levels in the Lane; and massively impacting on the privacy of neighbours.

6 Reduction in property values

The value of all properties in the Lane will continue to be adversely affected as the density of housing increases and the nature of the Lane is changed.

These serious social, economic and environmental consequences of the proposed development far out way the alleged benefits of 2 more houses to meet SMDCs target of 6000 new homes, the financial gain for the Applicants, and additional garden and garage gain for the owners of Oakhurst. Permission must be refused on this basis.

The proposed development

Plot 1 is simply too small to accommodate the proposed new dwelling. The new dwelling is too big and too close to the boundary with San Miguel. It will adversely affect the use and enjoyment of San Miguel in various ways including restricting the right to light (which San Miguel has enjoyed since it was built in 1982; dramatically increasing the noise and activity levels alongside San Miguel; and massively impacting on privacy and the privacy of all neighbours in Birchall Lane. It seems that one reason why the dwelling has to be located so close to the boundary with San Miguel is because the site is not otherwise large enough for the proposed sized dwelling. The site cannot even accommodate a garage and thereby must be the only dwelling on the whole of Birchall Lane not to have a garage. Presumably a large garden shed will be required for storage. Where will this be positioned in the plot without offending San Miguel's privacy further? Not only is the plot too small for a garage, it is too small to accommodate a sufficient driveway for cars to turn within its own boundary. Unlike plot 2, plot 1 doesn't have its own turning and maneuvering space (as defined in the Applicants' Planning Statement). Furthermore, there is not even space within the boundary of Plot 1 for any visiting vehicles to park. On whose property are visitors cars to park?

It seems the new garage that is proposed to be built, is for the existing Deepdale. Yet this property already has a large original detached garage. So why does it need another? We assume the grant of a legal easement for the purpose of turning must be part of the deal for the release of the restrictive covenant on Deepdale against development, and the transfer of the original garage must similarly be a sweetener for the new owner of Oakhurst. This is a housing greed scheme not housing need. This proposed development is an over development of the site and must be refused.

The Applicants in their statement at para 5.6 have wrongly stated that San Miguel and Tall Pines are small plots: The surrounding area exhibits a widely varying character, including a mixture of large detached dwellings set within substantial plots, and smaller dwellings set within more tightly confined plots, including the dwellings known as Tall Pines and San Miguel which lie to the north and west of the site respectively. Plot 1 must be half their size and certainly the smallest by far on this limb of the Lane. This statement is yet another one that is factually incorrect.

Furthermore, the houses on Birchall Lane are not a mixed development as suggested by para 5.10. The scale of the dwellings and plots are all substantial apart from the latest horror at Westerdale and such infill depresses the value of all neighbouring properties. There are restrictive covenants on the title setting significant minimum build costs. Birchall Lane was never intended to be a mixed housing development as stated by the Applicants. It is the only residential area in the town to provide accommodation on a private lane for substantial dwellings in a semi rural location. It is unique and must be preserved.

As regards Plot 2, in addition to the access rights, drainage and general density concerns, we have specific concern over its close proximity to the adjacent ancient woodland. We note the protections in place for the protection of the trees and wildlife. But a previous neighbour once informed us that the Deepdale site had connections with Dieulacres, the medieval monastic settlement formerly at Abbey Green. We would therefore suggest an archeological investigation is undertaken prior to any work in this area. Further, access within the site to Plot 2 down a very steep slope does raise serious concerns over access for emergency vehicles should the need ever arise.

Conclusion

The adverse health, social, economic and environmental consequences of this proposed development are major and far out way any benefit to the town of Leek.

The Applicants haven't lived at Deepdale as their principal residence for a considerable time (over 2 years) and have had it on the market for sale at an unrealistic price for years. It seems they made a mistake in paying too much for it and are now trying to get all of us to bear their loss with a totally unacceptable plan to change our neighbourhood.

Given the seriousness of our concerns and impact on the neighbourhood, we respectfully suggest that this application should not be considered by a planning officer alone, but should be reviewed in committee.

Also, as we have identified several inaccuracies in the Applicants' Planning Statement, we are suspicious that there may be more inaccuracies and /or misrepresentations in the numerous planning policies and plans referred to in the Statement. But we are not expert in this area and leave it to you as our expert public servant to consider these references very carefully. We ask for your reassurance that what is said in sections 3,4 and 5 of the Planning Statement is factually correct and not misleading in any way.

Further still, given the upset that the neighbourhood has experienced over the development of the new large house in the front garden of Westerdale at the centre of Birchall Lane, we are simply concerned that there is transparency in the process. The Westerdale development application was, we believe, decided by a planning officer and was not put to a committee. Not one adjoining neighbour was given written notice of the application by your planning department. And subsequently, we understand that important planning conditions to the Westerdale permission have been waived. Had the Council chosen to give written notice to adjoining neighbours, and if the neighbours had not been misled by the street scene images included in the application by the developer, the position with this development may be very different. For these reasons, we put it to you that the front garden development at Westerdale should not be seen as a precedent for the application in question as it is the view of many neighbours and visitors that planning permission should never have been granted.

Yours faithfully,

Brendan and Jane Daly