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22 October 2019

To: All Councillors

As a Member or Substitute of the **Community & Environment Committee**, please treat this as your summons to attend a meeting on **Wednesday 30 October 2019 at 6.00pm in the Council Chamber, Town Hall, Matlock DE4 3NN.**

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandra Lamb', written over a horizontal line.

Sandra Lamb
Head of Corporate Services

AGENDA

1. APOLOGIES/SUBSTITUTES

Please advise the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence and substitute arrangements.

2. APPROVAL OF MINUTES OF PREVIOUS MEETING

21 August 2019

3. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE WORKING DAY PRECEDING THE MEETING.**

4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

5. QUESTIONS PURSUANT TO RULE OF PROCEDURE NUMBER 15

To answer questions from Members who have given the appropriate notice.

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6. GYPSIES AND TRAVELLERS – UPDATE

4 - 12

To provide an update in respect of a Gypsy and Traveller family who have presented themselves as homeless and the work that has been undertaken to identify potentially suitable permanent sites. To provide information to Members in relation to a potential solution to the issue of unauthorised encampments at one of the most commonly used sites occupied by the District Council and consider approval of the continued provision of a temporary tolerated site on land at Old Coach Road Car Park, Rowsley pending the progression of negotiations to bring forward a potential permanent Traveller site, subject to a further review in February 2020.

7. AFFORDABLE HOUSING DEVELOPMENT PROGRAMME

13 - 16

To consider approval of the Capital Funding requirements for the affordable housing programme, as outlined in the report, and their recommendation to Council for inclusion in the capital programme.

8. DARLEY DALE NEIGHBOURHOOD PLAN

17 - 76

To note the key recommendations of the Examiner's report into the Darley Dale Neighbourhood Plan and to agree that, subject to these amendments, the Darley Dale Neighbourhood Plan meets the basic conditions and can proceed to a referendum.

9. THE HOMELESSNESS REDUCTION ACT ONE YEAR ON

77 - 84

To note progress in working with the changes to the homelessness legislation one year on and to approve technical changes that have been made to the Homelessness Prevention Strategy in accordance with new government guidance

85 - 109

10. FOOD LAW ENFORCEMENT SERVICE BUSINESS PLAN 2019/20

To consider approval of the Food Law Enforcement Service Business Plan 2019/20.

11. PROPOSED COMMUNITY ASSET TRANSFER – DOVERIDGE BURIAL GROUND

110 - 114

To consider a request from Doveridge Parish Council (DPC) for the transfer of the freehold of Doveridge Burial Ground and adjoining cemetery extension land to enable their continued use as a burial ground managed and operated by DPC.

12. UPDATE ON THE REVIEW OF ASHBOURNE STALL MARKETS

115 - 120

To consider an update on the review of stall markets and approval of the closure of the Ashbourne (Saturday) market. Also to note the granting of a licence to occupy Shrovetide Walk and arrangements to transfer the Ashbourne (Thursday) market to a Community Interest Company.

REPORT TO FOLLOW

Members of the Committee - Councillors Sue Bull, Martin Burfoot, Neil Buttle, Helen Froggatt (Vice Chair), Chris Furness (Chair), Clare Gamble, Susan Hobson, Tony Morley, Peter O'Brien, Joyce Pawley, Garry Purdy, Mike Ratcliffe, Andrew Statham, Alasdair Sutton, Colin Swindell, Steve Wain and Mark Wakeman.

Substitutes - Councillors Robert Archer, Jason Atkin, Richard Bright, Matthew Buckler, Paul Cruise, Tom Donnelly, Graham Elliott, Richard FitzHerbert, Alyson Hill, David Hughes, Stuart Lees, Elisa McDonagh, Michele Morley, Claire Raw, Mark Salt, Andrew Shirley and Peter Slack

COMMUNITY AND ENVIRONMENT COMMITTEE

30 October 2019

Report of the Head of Regulatory Services

GYPSIES AND TRAVELLERS - UPDATE

PURPOSE OF THE REPORT

To update the Committee in respect of a Gypsy and Traveller family who have presented themselves as homeless and in relation to the work that has been undertaken to identify potentially suitable permanent sites. To provide information to Members in relation to a potential solution to the issue of unauthorised encampments at one of the most commonly used sites occupied by the District Council.

RECOMMENDATION

1. That the Committee acknowledges and accepts its duties and responsibilities to Gypsies and Travellers under the Homelessness Reduction Act 2017.
2. That in response to the Council's duties and responsibilities to Gypsies and Travellers under the Homelessness Reduction Act 2017, the Committee agrees to the continued provision of a temporary tolerated site on land at Old Coach Road Car Park, Rowsley pending the progression of negotiations to bring forward a potential permanent Traveller site, subject to a further review in February 2020.
3. That the Committee notes the results of the search for a suitable permanent site.
4. That the Head of Regulatory Services continues to negotiate the provision of a permanent Traveller site and reports the outcome of the negotiations on Heads of Terms back to Committee at the earliest opportunity.
5. That the District Council continues discussions with the Bakewell Agricultural and Horticultural Society to evaluate a proposed solution to the issue of unauthorised encampments at the Agricultural business Centre, Bakewell.

WARDS AFFECTED

All Wards outside the Peak District National Park plus Bakewell.

STRATEGIC LINK

The District Council's duties under Planning and Housing legislation underpin its corporate objectives in relation to the whole of the District.

1. BACKGROUND

- 1.1 At its meeting on 29 September 2016, Council accepted its duties and responsibilities to Gypsies and Travellers under housing and planning legislation, and endorsed the

principle of development of land at Watery lane, Ashbourne as a permanent Gypsy and Traveller site.

- 1.2 At its meeting on 26 January 2017, Council resolved that a sum of £10,000 be made available to draw up a design specification for the Gypsy and Traveller site, that this specification be used to invite tenders for the development of the site, that all opportunities for external funding to assist with the development be explored and that authority be delegated to the then Corporate Director to agree appropriate heads of terms for the Council to become the leaseholder of the Watery Lane site.
- 1.3 On 12 July 2018 the Community and Environment Committee considered an updating report which noted that the site at Watery Lane, Ashbourne was not available at the present time due to the fact that the County Council had indicated (Cabinet Report 26 April 2018) that the acquisition or disposal of property in their ownership which may be impacted by a future A515 by-pass for Ashbourne should be suspended. This decision was further confirmed to the District Council by the Leader of the County Council at a meeting held on 22 July 2019.
- 1.4 This decision directly impacted upon the District Council's ability to provide a Gypsy and Traveller site at Watery Lane, Ashbourne despite the Council securing an allocation of land at Watery Lane for the provision of a Gypsy and Traveller site in the Adopted Derbyshire Dales Local Plan (Policy HC6). In the meantime, the District Council is failing to deliver against its requirement to provide 6 Gypsy and Traveller pitches by 2019 and continues to experience unauthorised encampments in locations such as Bakewell, Matlock Bath, Doveridge and Ashbourne.
- 1.5 As a consequence, it was resolved that Officers should undertake a comprehensive site identification and evaluation exercise to consider the potential for an alternative Gypsy and Traveller site within the Derbyshire Dales (outside the Peak District National Park) and that a further report should be presented to Committee on the outcome of this exercise.
- 1.6 At a meeting held on 15 November 2018, the Community and Environment Committee resolved to initiate as quickly as practicable a search of land in private ownership and / or offered for sale on the open market with the intention of the District Council purchasing a suitable site subject to Council approval. That process has now been concluded.
- 1.7 Following the resolution of the Community and Environment Committee on 15 November 2018, matters progressed quickly in that the Traveller family submitted a homelessness application which was accepted by the Council. The basic circumstances in relation to this application were that although the family had caravans in which to live, they had no land on which they could legally site these caravans. The acceptance of this application has placed a duty of the Council to provide a series of temporary tolerated sites for the family whilst the search for a permanent site has continued. The circumstances of this family are considered in the early parts of this report.

2. THE HOMELESSNESS REDUCTION ACT 2017

- 2.1 On 3rd April 2018 the Homelessness Reduction Act 2017 came into force. The Act puts a legal duty on Local Authorities to offer more support and provide free advice to all residents within the local area.

- 2.2 The Act introduces a fundamental change to the way the Council delivers homeless support and advice services and focuses on providing assistance earlier, and the prevention of homelessness. New legal duties mean that the Council must:
- provide advice and carry out prevention work so that, where possible, people can be supported to remain in their current home;
 - offer everyone who is homeless or at risk of homelessness access to meaningful help, irrespective of their priority need status, as long as they are eligible for assistance; and
 - carry out prevention and relief work for anyone threatened with homelessness within 56 days.
 - If prevention and relief work does not resolve the homelessness the housing authority has a duty to secure a suitable offer of accommodation ('the main housing duty').
- 2.3 Under section 175(2) of the Housing Act 1996, applicants are homeless if the accommodation available for their occupation is a caravan, a houseboat or other movable structure and they do not have a place where they are entitled, or permitted, to put it and live in it. If a duty to secure accommodation arises in such cases, the Housing Authority is not required to make equivalent accommodation available (or provide a site or berth for the applicant's own accommodation). However, the Housing Authority must consider whether such options are reasonably available, particularly where this would provide the most suitable solution to the applicant's accommodation needs.
- 2.4 The circumstances described above are particularly relevant in the case of Gypsies and Travellers. Where a duty to secure accommodation arises but an appropriate site is not immediately available, the Housing Authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. Some members of the Gypsy and Travelling Community may have a cultural aversion to the prospect of 'bricks and mortar' accommodation and, in assessing such cases, the Housing Authority should seek to provide suitable accommodation which is suitable for the person to whom the duty is owed. However, where the Housing Authority is genuinely satisfied that there is no prospect of a suitable site for the time being, there may be no alternative solution to an offer of bricks and mortar accommodation. Housing Authorities must give consideration to the needs and lifestyle of applicants who are Gypsies and Travellers when considering their application and how best to discharge a duty to secure suitable accommodation, in line with their obligations to act consistently with the Human Rights Act 1998 and, in particular, the right to respect for private life, family and the home; as well as their duties under section 149 of the Equality Act 2010.
- 2.5 The District Council is currently in a situation where, in accordance with the 2015 Gypsy and Traveller Accommodation Assessment, we have a requirement to provide 6 pitches by 2019 and a further 3 pitches by 2034 within the Derbyshire Dales (outside the Peak District National Park). At the present time, we have no pitch provision in the Derbyshire Dales outside the Peak District National Park. We are, therefore, not in a position to discharge our statutory duties under the Homelessness Reduction Act 2017 by directing Gypsy and Traveller families to a designated site (temporary or otherwise).

3. TEMPORARY TOLERATED SITE

- 3.1 As outlined above, where a duty to secure accommodation arises but an appropriate site is not immediately available, the Housing Authority may need to provide an alternative temporary solution until a suitable site, or some other suitable option, becomes available. The District Council, therefore, needs to determine whether it is prepared to accommodate the Traveller family on a temporary tolerated site pending the provision of a more permanent or suitable option.
- 3.2 At the present time, following the resolution of this Committee on 10th December 2018, which was confirmed at the Committee meeting on 26 June 2019, the Traveller family is located on the car park at Old Station Close, Rowsley. They occupied this site upon leaving their previous tolerated encampment at the coach park at Matlock Bath Station Car Park, despite being directed to land at Middleton Road, Wirksworth. Prior to occupying the site at Matlock Bath, the family had been located on a tolerated site at Fishpond Meadows car park, Ashbourne and then an unauthorised encampment at Ashbourne Leisure Centre car park. A plan of the Rowsley site is shown at Appendix 1 to this report.
- 3.3 Having occupied the Rowsley site, the family was visited by officers, who agreed that the site provided reasonable temporary accommodation. Water, toilets and a perimeter fence were provided for the family. Discussions have been held with the Clerk to the Parish Council and at the present time the site is working well. Officers continue to visit several times a week to ensure that the site is being managed by the Travellers and to take any action that may be required. The car park is not 'in charge' and is used mainly by local residents and by traders on the industrial estate. An area at the front of the car park remains available for public use, with the Travellers being sited towards the rear of the car park, mainly on the site of the old District Council compound. Officers are of the view that the site is suitable for continued temporary use on this basis.
- 3.4 Since the family has occupied the site there have been occasions when other members of the Travelling community have also occupied the site, using the area at the front of the car park, outside of the fencing provided for the family. These encampments have not been authorised by the Council and action has been taken to remove them. The site has also been subject to tipping of green waste, which has been removed periodically and which is now subject to formal investigation. This problem has diminished significantly since the eviction of the unauthorised Travellers.
- 3.5 The Rowsley site has not previously been considered to be suitable as a permanent site, not least because it lies on the line of the proposed extension of the Peak Rail line and the White Peak Loop cycle way. Therefore there remained a need to find a suitable permanent site.

4. THE SEARCH FOR A PERMANENT SITE

- 4.1 In accordance with the Committee resolution on 15 November 2018, consultants were appointed to undertake a search of open market / privately owned land holdings across the district (outside the Peak District National Park) to determine a suitable site. The consultant's formal report was received in February 2019 and identified 7 sites that were on the market at the time of the research. These sites were:

- Meadow land at Winster,
- The Woodyard at Homesford,

- Mayfield Road Service Station at Ashbourne,
- Thatch Meadow Barn at Brassington,
- land at Smith Hall Lane at Hulland Ward,
- land at Fenny Bentley
- Land at Leys Farm, Ashbourne.

Each of these sites was evaluated against the criteria contained in Policy HC6 of the adopted Derbyshire Dales Local Plan and all other practical considerations, and were discounted for the following reasons.

Site	Reasons
Meadow land at Winster	Outside the Derbyshire Dales planning area, doubtful access provision, lack of services, within flood risk zone
The Woodyard, Homesford	Previously refused permission on appeal, located away from local amenities, known to be unacceptable to the family on reasons of safety
Mayfield Road Service Station	Likely to have detrimental impact on neighbouring amenity, subject to planning application as housing site, land not available at reasonable cost
Thatch Meadow Barn, Brassington	Likely to have detrimental impact on neighbouring amenity, located away from local amenities
Smith Hall Lane, Hulland Ward	Located away from local amenities, thought to provide some potential if site could be divided, but subject to potential use of the rest of the site
Land at Fenny Bentley	Outside the Derbyshire Dales planning area, likely to have detrimental impact on neighbouring amenity
Leys Farm, Ashbourne	Existing housing site, likely to have detrimental impact on neighbouring amenity

- 4.2 In addition to the above, a public ‘call for sites’ was also put out through the District Council’s media network in March 2019 and this remains ‘live’ on the District Council’s website. This resulted in 2 sites being put forward, one at Derby Road, Ashbourne and the other in Swadlincote. The site at Derby Road is currently a care home and is surrounded by residential accommodation, and the site in Swadlincote is outside of the District Council’s area. Therefore neither site is considered to be suitable for development as a permanent Traveller site.
- 4.3 Discussions have also been undertaken with representatives at Derbyshire County Council in order to establish whether their position in regard to the previously identified site at Watery Lane, Ashbourne has changed. Derbyshire County Council have reiterated their stance that the site at Watery Lane is currently not available due to the potential impact of work currently being undertaken in regard to the feasibility of the A515 by-pass. This position was confirmed at a meeting with the Leader of the County Council on 22 July 2019.
- 4.4 Given the limitations of the land known to be on the market, additional work was commissioned from a second firm of experienced consultants who have detailed knowledge of the Derbyshire Dales, making use of a slightly different methodology. This work started from the principle of identifying suitable sites, whether they were on the market or not, and then approaching the land owners in order to identify if any

would be willing to work with the District Council to develop the site, or to sell the site to the District Council for development.

- 4.5 Initial recommendations from the survey work suggested that the best chance of finding a landowner who might be willing to work with the Council was likely to be based on a hierarchical approach. In the first instance it was suggested that public sector landowners, such as Government departments and agencies, and local government might form the most co-operative partners, followed by utility companies, the private sector and then agricultural landowners. To facilitate the search it was recommended that the District Council contacted the public sector bodies to ascertain whether they had any land within the area that might be surplus to their needs and then engaged the consultants to undertake further work to check the suitability of any potential site and to progress matters towards a possible sale or lease. Council officers contacted the public sector bodies identified, citing the principles of the One Public Estate programme, but no positive response was obtained.
- 4.6 The consultants also produced a long list of sites that they considered might be suitable from the point of view of the Travellers concerned. Each of these sites was informally evaluated by the Council's Development Management Team and the long list was reduced to a short list of 5 sites, including those in public sector ownership, that were thought to have the potential to be supported in Planning terms. Each of the landowners was approached and only one was prepared to work further with the Council on this issue.
- 4.7 Discussions are continuing with this landowner and are currently at a delicate stage. The landowner has requested that at this stage neither his details nor those of the site are discussed publically and officers are honouring that request. If discussions over the site are successful then the matter will become one of public knowledge as it will be necessary to apply for planning permission.

5 POTENTIAL PERMANENT SITES

- 5.1 All the work outlined in the report above has enabled the Council to identify 3 sites that might be considered suitable for development as a permanent Traveller site. These are:
- Old Station Close car park, Rowsley;
 - Land at Middleton Road, Wirksworth;
 - Land identified through consultants.

The sites are discussed in more detail below.

- 5.2 Old Station Close car park is the site currently in use as a temporary tolerated site for the Traveller family. It has the advantage of being owned by the District Council but is also operational land, in that it is intended to provide a parking facility for local residents and those working on, or visiting the industrial estate on which it is sited. Reports from a number of firms on the estate have indicated that the presence of the encampment has meant that visitors have been unable, or unwilling to use the car park, which has resulted in on-street parking, which has, in turn, prevented delivery vehicles from being able to access the businesses. It is thought that any development of this site into a permanent site would need to incorporate alternative off-street parking.

- 5.3 This site is also located on the line of the potential extension of the Peak Rail line and on the White Peak Loop cycle way, which would need to be protected in any development of the site.
- 5.4 Without prejudice to any future planning application, advice from the Development Management team is that the site is in a relatively sustainable location near to a main arterial road with some local services provided within Rowsley. However the site is safeguarded from other permanent uses by local plan allocation S7 and is also not considered suitable for long –term usage because the site is accessed across a public car park and is heavily shaded and enclosed by tall mature trees at close quarters.
- 5.5 It is understood that the Traveller family value this location as a temporary tolerated site. However, whilst it is accepted that the site has not been developed as a permanent site would be, they are of the view that it does not meet all their needs. In particular they would prefer a site from which they can more easily be supported by their extended family and where their health and welfare needs can be more easily accessed. To these ends they would prefer a site that was located further to the south of the district.
- 5.6 Land at Middleton Road, Wirksworth is a site that has previously been considered by this Committee as a temporary tolerated site. It has the advantage of being in the ownership of the District Council. It is an area of land set back from the road between Wirksworth and Middleton and located adjacent to Stoney Wood. The site is currently overgrown with scrubby woodland vegetation, but does provide an element of hard standing underneath the immediate surface. It is not operational land, but it is well known that there is significant local opposition to its use as a Traveller site. There has been a suggestion from Wirksworth Town Council that they might be prepared to purchase the land from the District Council to incorporate it into the Stoney Wood area.
- 5.7 Without prejudice to any future planning application, advice from the Development Management team is that the site is in a sustainable location near to a wide range of services. However the site lies within both a Local Wildlife Site and Geological Site designation and is visible within the setting of an adjacent Conservation Area. These sensitivities receive protection under local plan policies PD3 and PD2 and any proposal would need to address these constraints.
- 5.8 It is understood that the Traveller family would be very reluctant to occupy this site, due in part to the perceived local opposition and its relatively exposed aspect. However, from their perspective, the site is still not in their preferred geographical location and therefore does not assist with their family, health and welfare needs as well as they would wish.
- 5.9 The site identified by the Council’s consultants has an area of approximately 0.45 Ha, so it is large enough to meet the Local Plan requirements, it is hard surfaced and there are currently a number of commercial buildings on the land. It is understood that there is an electricity supply within the site and that mains water is available within the road outside the site. It is within the area preferred by the Traveller family. Officers are of the view that the site could be developed as a Traveller site.
- 5.10 Without prejudice to any future planning application, advice from the Development Management team is that the site is a sustainably located brownfield site within easy reach of the full range of services. The development of the site would not adversely

impact on amenity of other residential properties and can readily contained within the landscape. The site performs well against plan policy HC6.

- 5.11 The Head of Regulatory Services has visited the site with a representative of the Derbyshire Gypsy Liaison Group, acting on behalf of the family, and she has confirmed that she believes that this site would meet the family's needs from the point of view of geography, support and security. As stated above, the site is of sufficient area to provide all the facilities required by the family.
- 5.12 The three sites described above have emerged following a great deal of work undertaken by officers and by two firms of consultants. It seems clear that there are currently no other feasible options for the development of a permanent Traveller site on the table. It is the view of officers that of the three site described above, the site identified by the Council's consultants most closely meets the Local Plan policies and the needs of the Traveller family. Therefore it is recommended that authority be delegated to the Head of Regulatory Services to negotiate Heads of Terms to either purchase or lease this site for development as a permanent Traveller site, with the outcome of these negotiations to be reported back to Committee at the earliest possible opportunity.

6 CAR PARK SECURITY ISSUES

- 6.1 At the Council meeting on 26 June 2019 officers provided an update in relation to numbers of unauthorised encampments on District Council owned land. These figures showed that the most camped locations were the 2 Matlock Bath car parks, the Matlock Station car park and the ABC at Bakewell. Since that report officers have been involved in discussions with Bakewell Agricultural and Horticultural Society (BAHS) and it is proposed that a joint solution be pursued to provide added security to the ABC in order to restrict the ability for unauthorised encampments to occur. The BAHs have agreed to lead on this work and further details of their proposals are currently awaited.

7. RISK ASSESSMENT

Legal

- 7.1 The District Council is seeking to address the lack of authorised Gypsy and Traveller Sites within the District to meet its duties under the Planning Policy for Traveller Sites 2015. In the absence of a permanent site, the temporary site will minimise the risk of legal action being taken against the Council for failing in its statutory duty to provide such a site.
- 7.2 The Council also has duties under the Homelessness Reduction Act 2017. The temporary site, reduces the risk of challenge against the Council for failing in its duties under the homelessness legislation.
- 7.3 The Council is also under a duty to protect its assets and ensure they are used for their intended purpose. Therefore eviction of illegal encampments is a necessary but temporary solution to the lack of authorised sites within the District. However due to the lack of a permanent site the risk of a legal challenge is medium to high and without the use of a temporary site to place families, the risk would be high.

Financial

- 7.4 The cost of Officer time spent dealing with unauthorised encampments and undertaking a comprehensive site identification and evaluation exercise to identify the

potential for an alternative Gypsy and Traveller site has been met from within existing budgets. The revenue costs associated with facilities for the temporary site (£7,000) and consultancy to identify a permanent site (£3,000) will be included in the revised estimates to be reported to Council on 21 November. The financial risk associated with this report is assessed as low.

Corporate Risk

- 7.5 The corporate risk in terms of the Council's reputation and failing to fulfil a legal obligation, is high.

8. OTHER CONSIDERATIONS

- 8.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

9. CONTACT INFORMATION

Tim Braund – Head of Regulatory Services
 Telephone 01629 761118
 Email: tim.braund@derbyshiredales.gov.uk

10. BACKGROUND PAPERS

29 th January 2016	Report to Council (Gypsies and Travellers)
26 th January 2017	Report to Council (Gypsies and Travellers Update)
12 th July 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
15 th November 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers Update</i>)
10 th December 2018	Report to Community & Environment Committee (<i>Gypsies and Travellers – Discharge of Homelessness Duty</i>)
21 st February 2019	Report to Community & Environment Committee (<i>Gypsies and Travellers – Discharge of Homelessness Duty</i>)
26 June 2019	Report to Community & Environment Committee (<i>Gypsies and Travellers</i>)

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Item No.

COMMUNITY AND ENVIRONMENT COMMITTEE
30TH OCTOBER 2019

Report of the Head of Housing

AFFORDABLE HOUSING DEVELOPMENT PROGRAMME

PURPOSE OF REPORT

This report sets out the details of the proposed affordable housing programme which requires Capital Funding support.

RECOMMENDATION

That the Capital Funding requirements outlined in this report for the affordable housing programme be approved and referred to Council for inclusion in the capital programme.

WARDS AFFECTED

All wards

STRATEGIC LINK

Enabling the development of affordable housing supports the District Council's priority of providing housing which meets local needs. The schemes in this report are a key part of alleviating housing need within the District.

1 SUMMARY

- 1.1. As previously reported to the Committee, over the last few years, there has been a rapid acceleration of private developer led sites in the Derbyshire Dales where the Council has successfully negotiated the provision of on-site affordable homes. Some of these sites also provide an off-site financial contribution in the form of payments to the Council which are then used to support our wider housing enabling activity.
- 1.2. The government policy towards housing associations fluctuates over time. Currently, we are in a period of high investment, with significant financial support to fund the delivery of affordable housing.
- 1.3. The Derbyshire Dales has a strong relationship with several housing association partners, Platform Housing Group (formerly Waterloo Housing Group), Nottingham Community Housing Association (NCHA), Peak District Rural Housing Association (PDRHA) and with private developers to ensure on site homes can be bought by the 3 associations. The District Council's funding has given NCHA, PDRHA and Platform the confidence to invest more of their resources here rather than elsewhere. The District Council also works with other housing associations, Community Land Trust and Almshouses.
- 1.4. This report sets out the Capital Funding requirements for the affordable housing delivery programme. The objectives of providing funding are as follows:
 - o To secure on site provision of affordable homes on 1 s106 site
 - o To provide grant support to housing association developments on 3 sites
 - o To support Community Land Trusts and Almshouses on 2 sites

- o To set aside funding to develop Council land

1.5. The total proposed programme represents 127 homes funded by £2,215,000 together with a transfer of an existing allocation of £157,500.

1.6 Unallocated funding in the Capital Programme stands at over £3,000,000 with more contributions continuing to be negotiated.

2 REPORT

2.1. Table 2.1. below shows the Capital Grant required to support a number of housing associations, a Community Land Trust (CLT) and an almshouse.

Table 2.1

Village/Town	Proposal	Provider	No. of Homes	Funding	Year funding required
Ashbourne	12 bungalows with additional 'green' features £250,000 plus £150,000	NCHA	12	£250,000 + £150,000	2020/21
Bakewell	Additional support for the delivery of 30 affordable homes which are on site	Platform	30	£80,000	2020/21
Bakewell	To support the purchase of existing homes or new build in Bakewell for affordable rent	Bakewell Almshouse Trust	1	£35,000	2020/21
Matlock	60 new supported homes plus additional general needs accommodation	YMCA with NCHA as agent	60+	£500,000	2021/22
Wirksworth	To deliver passivhaus/highly energy efficient homes on a site owned by Waterloo or purchase and retrofit of former Right To Buy homes or empty properties	Wirksworth CLT	2	£350,000	2019/20 or 2020/21
Total			105	£1,365,000	

2.2. Table 2.2 below shows the Capital Grant support required for Phase 1 of a proposal to develop Council owned land.

Village/Town	Proposal	Provider	No. of Homes	Funding	Year funding required
Various	To develop Council owned land, Phase 1	To be confirmed	7	£850,000	2021/22

2.3. In addition to the above, there is a proposal to switch an existing allocation as follows. Previously the District Council allocated £157,500 to Nottingham Community Housing Association for a scheme at Dove Garage, Mayfield Road, Ashbourne. This scheme is no longer proceeding as the landowner has sold the site to another developer. NCHA have another scheme in Darley Dale which has a similar subsidy requirement and it is proposed to switch this allocation to this new scheme. This will enable NCHA to buy 15 s106 homes on the Persimmon site. The homes provided will be for rent.

- 2.4 The total Capital Grant bid is for £2,215,000 which will deliver the proposed programme representing 127 homes, together with a transfer of an existing allocation of £157,500.
- 2.5 The Capital Programme scoring matrix for this programme is attached at Appendix 1.

3 RISK ASSESSMENT

3.1. Legal

This report is a recommendation of the plan and funding to Council. The approval of the capital funding requirement for affordable housing will result in the funding being included in the Capital Funding Report that will be approved by Full Council.

Money received into the Capital Programme from 106 payments have to be spent as detailed in the 106 Agreement. Failure to spend the money as detailed or within statutory time limits can result in the money having to be repaid to the developer.

By allocating these funds for the provision of affordable housing within the relevant time scales reduces the risk of developers seeking to reclaim the money paid.

3.2. Financial

Capital financing for this proposed affordable housing programme is currently available from unallocated Section 106 contributions and from capital grants, subject to Council's approval at the meeting on 21st November. Given the pressures on the Council's resources, the financial risk is assessed as high.

4 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

Isabel Cogings, Rural Housing Enabler
 Telephone: 01629 761256, email: isabel.cogings@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

Date	Description	Location
2019	Community and Environment Committee 26 June 2019, Affordable Housing Development Programme	Head of Housing
2018	Community and Environment Committee 12 July 2018, Affordable Housing Development Programme	Head of Housing
2017	Community and Environment Committee 15 June 2017, Affordable Housing Development Programme	Head of Housing
2015	Community Committee 9 April 2015, Affordable Housing Development Programme	Head of Housing

Appendix 1 Capital Programme Scoring Matrix

2	Potential to generate income?	The level of income expected to be generated. Is it annual or one-off? Will it exceed the costs of the project?	Up to 15	10.0	Included in this capital bid is a bid to develop on council owned land, with the potential for the District Council to own the new homes. This would generate a yearly income stream (rental income per home) for the Council.
3	Meets Corporate Priorities or Has Potential to Generate Income	Which corporate priority does this project meet? What is the potential for income generation?	Up to 15	15.0	Supports the provision of affordable homes and, in the process, it also supports the local economy by the use of local workers, building materials, and the use of shops and services.
3	Reputational & Political Risk	Describe the potential reputational & political risks if this project does not go ahead.	Up to 15	13.0	Insufficient provision of affordable housing to meet local need would risk damaging the Council's reputation and pose a political risk, as local residents, some of whom will be vulnerable, potentially struggle to find suitable accommodation to meet their needs and those of their families.
4	Level of Complaints	If significant, describe the current level of complaints relating to this project area? Is that likely to increase if this project does not go ahead?	Up to 5	2.0	The District Council's role is to enable the provision of affordable housing in the District to meet local needs. There is the potential for complaints from people inadequately housed or unable to access the housing ladder and due to the District Council potentially being unable to meet its obligations under the Prevention of Homelessness Act due to a lack of affordable housing.
5	Commitments to other organisations	Provide details of any commitment that has been given to another organisation in respect of delivering this project?	Up to 10	7.0	Housing associations and other development partners such Community Land Trusts and almshouses are dependent on District Council funding to make their affordable housing development proposals financially viable, Homes England grant rates being insufficient. District Council funding provides development partners with the confidence to invest here rather than in other areas.
6	Capacity to Deliver	Describe the capacity to deliver, especially in terms of financing. Will the project be (part) funded by grants, Section 106 / CIL or a specific capital receipt? Is it likely to be approved for financing from the Investment Fund?	Up to 20	14.0	Unallocated funding in the Capital Programme from the sale of Right to Buy receipts and s106 monies for affordable housing stands at over £3,000,000. Some of the capital grants have already been allocated previously. The District Council's Housing Team has significant housing development knowledge and Altair consultancy is also assisting with proposals to develop on Council owned land.
7	Critical Deadline	Provide details of any critical deadline. Specify the risks (such as business interruption) and hazards (such as loss of income) that will be caused by any delay.	Up to 20	15.0	The capital bid applies to schemes which are in the District Council's development pipeline. Some of the schemes are on site, others are at the pre-planning stage. District Council support gives Housing associations the confidence to progress schemes in Derbyshire Dales. The funding is vital to the delivery of these schemes.
Total				76.0	
Date score agreed by CLT:					

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COMMUNITY AND ENVIRONMENT COMMITTEE
30 OCTOBER 2019

Report of the Head of Regeneration and Policy

DARLEY DALE NEIGHBOURHOOD PLAN

SUMMARY

This report sets out the key recommendations of the Examiner's report into the Darley Dale Neighbourhood Plan. Subject to these amendments the Darley Dale Neighbourhood Plan meets the basic conditions and can proceed to a referendum. The report seeks Member's approval to move forward to the Referendum on the Darley Dale Neighbourhood Plan.

RECOMMENDATION

1. That the report of the examiner appointed to undertake the Examination of the Darley Dale Neighbourhood Plan be noted.
2. That subject to the recommended modifications set out in Appendix Two that the District Council be satisfied that the basic conditions as required by Paragraph 8(1)(a) of Schedule 4B to the Town and Country Planning Act 1990 have been met.
3. That the Darley Dale Neighbourhood Plan as modified be submitted to a referendum in the Parish of Darley Dale and that it is held on Tuesday 21 January 2020.
4. That a further report be presented to this Committee/Council following the holding of the referendum.

WARDS AFFECTED

Darley Dale

STRATEGIC LINK

The implementation of the Darley Dale Neighbourhood Plan will provide a wider planning framework for the Derbyshire Dales, focused within Darley Dale. The Neighbourhood Plan will complement policies set out within the Derbyshire Dales Local Plan (adopted 2017) to achieve high quality developments and environments for existing and new residents and communities of Darley Dale, and form part of the development plan for the District.

1 BACKGROUND

- 1.1 The Parish of Darley Dale was designated as a Neighbourhood Area in accordance with Section 61G of the Town and Country Planning Act (as amended by the Localism Act 2011) on the 18th August 2014. The designation of a Neighbourhood Area is one of the statutory requirements needed to be in place to enable a Neighbourhood Plan to be adopted, and formally become a part of the Development Plan, and be used in the determination of planning applications by the District Council.

- 1.2 Since that time Darley Dale Town Council undertook consultation amongst the local community to determine the key issues in Darley Dale, and prepare the Darley Dale Neighbourhood Plan.
- 1.3 At the meeting of this Committee on 26th June 2019 it was resolved: (Minute 45/19)
1. That the representations received during the statutory publicity period for the Darley Dale Neighbourhood Plan, as set out in Section 2 of the report be noted, and forwarded to the examiner appointed to undertake the Examination of the Darley Dale Neighbourhood Plan.
 2. That the comments made in respect of the policies and proposals contained within the Darley Dale Neighbourhood Plan set out in Section 3 of the report are noted and that they be forwarded to the examiner appointed to undertake the Examination of the Darley Dale Neighbourhood Plan.
 3. That a further report be presented to the Community and Environment Committee that sets out the Examiner's Report findings and any recommended modifications to the Darley Dale Neighbourhood Plan.
- 1.4 An independent Examiner, Andrew Matheson MSc MPA DipTP MRTPI FCIH, was appointed by the District Council with the agreement of Darley Dale Town Council. The Examination in Public was undertaken by written representation during August/September 2019, and the Examiner's report was submitted to the District Council on 26 September 2019.

2 EXAMINER'S REPORT

- 2.1 The Independent Examiner's role is to ensure that the Neighbourhood Plan meets the legislative and procedural requirements. An Examiner is required to consider whether a neighbourhood plan meets the "Basic Conditions", as set out in the relevant legislation:
- Have regard to national policies and advice contained in guidance issued by the Secretary of State.
 - The making of the neighbourhood plan contributes to the achievement of sustainable development.
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
 - The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
 - The making of the Neighbourhood Development Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.
- 2.2 It is the Examiners role to assess whether the Neighbourhood Plan 'provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency (NPPF para 17).
- 2.3 The Examiner in his report has "congratulated Darley Dale Town Council on its extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2033". He states that as a result "great care will

have been taken to protect the special landscape which defines the Parish so that the buildings and landscape continue to inspire local people and visitors alike”.

- 2.4 The Examiner also indicates that the Neighbourhood Plan is “well presented with a distinctive combination of text, clear images and Policies that are, subject to the specific points, well laid out and helpful for the reader”. He goes on that that he considers that the Plan has been kept to a manageable length by not overextending the potential subject matter.
- 2.5 A copy of the Examiner’s report is attached in Appendix One to this report.
- 2.6 The Examiner’s Report recommends a series of modifications to the Policies, the supporting text and maps to effect corrections, ensure clarity and more importantly to ensure that the Basic Conditions are met. Whilst the report recommends a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body.
- 2.7 Subject to the recommended modifications set out in his Report the Examiner has concluded that the Darley Dale Neighbourhood Development Plan meets all the necessary legal requirements and should proceed to referendum.

Examiner’s Response to issues raised by the District Council

- 2.8 A number of the key issues were raised by the District Council during the formal Regulation 16 public consultation (Community & Environment Committee 26th June 2019). The table below sets out a summary of the main comments made by the District Council during the statutory public consultation process and provides a summary of the Examiner’s response and recommendations to those points raised. The Examiner’s full schedule of modifications and the District Council’s response is set out in Appendix 2.
- 2.9 With regards to the comments made by the District Council, the Examiner accepts that that some rephrasing is required to the Darley Dale Neighbourhood Plan to enable policies to be applied effectively through the decision making process.

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
	General		The National Planning Policy Framework (2019) ¹ states ‘the policies in the previous framework will apply for the purposes of examining plans, where those plans are submitted on or before 24 th January 2019. The Darley Dale Neighbourhood Plan will be examined in the context of the 2012 Framework.	

¹ NPPF (published February 2019) Paragraph 214 & accompanying footnote 69

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
	General		All references to the 'Local Plan' should read the 'Derbyshire Dales Adopted Local Plan (2017)' throughout the Plan.	The Examiner has ensured that this reference is correct throughout the document.
	General		Support is given for the footnote highlighted in green on each page of the Neighbourhood Plan which states that ' <i>All policies should be read in conjunction with policies in the Derbyshire Dales District's adopted policies. No Neighbourhood Plan policy will be applied in isolation, account will be taken of all relevant policies</i> '. This provides clear direction to the reader that all relevant policies are to be considered through the determination of planning applications and that this is not a standalone document in the wider planning framework.	The Examiner agrees with the District Council that this is a helpful note for readers.
1	2	4	It is considered that the vision for Darley Dale for the period up to 2033 complements the Derbyshire Dales Local Plan and is appropriate for the Neighbourhood Plan.	The Examiner sets out that Neighbourhood Plan must specify the period during which it is to have effect. The Examiner recommends for clarity that the Plan period is amended from 2019 to 2033. See Recommendation 1
3	13	7	This section sets out how the Darley Dale Neighbourhood Plan sits within the context of the Derbyshire Dales Local Plan and sets out housing development that is planned within the parish. Three sites allocated under Policy HC2 of the Derbyshire Dales Local Plan (2017) are referenced in the table under paragraph 13, however this is factually incorrect as there are four housing allocations within Darley Dale as set out in Policy HC2 of the	The Examiner is satisfied that this was a drafting error by the Qualifying body and has recommended that Policy HC2(m) Land at Stancliffe Quarry is inserted into table under paragraph 13, for clarity and accuracy. See Recommendation 5.2

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			Derbyshire Dales Local Plan (2017). There is an omission of Policy HC2 (m) Land at Stancliffe Quarry, Darley Dale, 10.16 ha, 100 dwellings which should be inserted and referenced in the table.	
3	18	8	Reference to ' <i>Documents 12 a-f</i> ' should be deleted and insert ' <i>Documents 17 a-f</i> '	The Examiner recommends that paragraph 18 should be made a footnote (correcting the paragraph reference) and replaced with alternative wording for clarity and accuracy to ensure that appropriate national guidance is referenced. See Recommendation 5.6
9	69, 70, 71,	24, 25	The Neighbourhood Plan sets out in several places that pre-application advice is encouraged on all major developments and minor developments outside of the Settlement Boundary for Darley Dale. The additional text to paragraph 69 sets out that 'pre-application discussions with the Town Council is a voluntary process' is welcomed. However this use of language should be repeated and clearly set out within Paragraph 71; Key Principle: Pre-application Community Engagement, Key Principle 1 for further clarification purposes that it is a voluntary rather than a formal process.	The Examiner agreed with the District Council that for clarity that additional wording is added to make it clear that all decisions are undertaken by Derbyshire Dales District Council as Local Planning Authority. See Recommendation 9.1 & Recommendation 9.2
9	71	25	Key Principle 2 is considered unachievable as this does not conform to statutory regulations. It is the Local Planning	The Examiner sets out in his report that for clarity it is recommended that the wording in Key Principle 2 is amended. See Recommendation 9.3

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			<p>Authorities role to prepare a local list to clarify what information is required to accompany a planning application. In addition, information being requested with a particular planning application must be:</p> <ul style="list-style-type: none"> • Reasonable having regard, in particular, to the nature and scale of the proposed development; and • About a matter which it is reasonable to think will be a material consideration in the determination of the application. <p>(Section 62(4A) of the Town & Country Planning Act 1990). Planning applications should be accompanied by plans and drawings; ownership details and Design & Access Statement. A consultation statement for a proposal is not a statutory requirement. Therefore Key Principle 2 principle should be removed.</p>	
10	Policy NP1 (e)	28	Criteria (e) duplicates Derbyshire Dales Local Plan Policy PD5 which seeks to protect the landscape character of the area and the setting of the Peak District National Park, therefore criteria NP1 (e) should be deleted.	The Examiner's report sets out that the Policy is intended as an overarching policy that establishes the key development principles and because there is general conformity with the Local Plan policies no amendment is required.
11	109, 110	34	This paragraph sets out that 'as part of pre-application engagement	The Examiner sets out in his report that some rewording is

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			<p>the Town Council will seek to ensure that proposals for major development will not have visual impact on the setting of the Peak District National Park and where necessary modifications to design and landscaping will be discussed with the developer to see if alternative approaches can be accommodated.</p> <p>The District Council has no significant objection to the Town Council engaging with developers of major proposals prior to the submission of a planning application. However the Town Council should make it clear within the Neighbourhood Plan that any comments it makes at this stage are its own and may not represent or be the same as the District Council's in its role as a Local Planning Authority.</p>	<p>required for clarity, accuracy and to meet Basic Condition 1.</p> <p>See Examiner's Recommendation 20.2</p>
11	Policy NP10	34	<p>Policy NP10 – Policy PD5 within the Derbyshire Dales Adopted Local Plan seeks to protect the setting and purpose of the Peak District National Park. As such it is considered that there is no reason why this policy should be retained in the Neighbourhood Plan and should be deleted.</p>	<p>The Examiner sets out in his report that some rewording is required for clarity, accuracy and to meet Basic Condition 1.</p> <p>See Examiner's Recommendation 20.4</p>
12	Table 3	36	<p>Key Design Principles for Darley Dale Parish, bullet point 3 - This essentially duplicates wording set out within Policy HC1 of the Derbyshire Dales Local Plan and should be deleted.</p>	<p>The Examiner has recommended that bullet point 3 is deleted to 'avoid unnecessary prescription or detail for clarity and accuracy.</p> <p>See Recommendation 21.3</p>

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
12	Footnote 38	36	Footnote 38 does not add any further information than that set out within Policy HC1 of the Derbyshire Dales Local Plan. Accompanying Footnote 38 should be deleted.	The Examiner has recommended that footnote 38 is deleted to avoid unnecessary prescription or detail and to provide clarity and accuracy. See Recommendation 21.3
12	125	37	The last sentence in this paragraph is incorrectly referenced. <i>'NP3 sets out design requirement for all residential development within the Plan area'</i> . This should be replaced with Policy NP11.	The Examiner has recommended The policy reference is amended. See Recommendation 21.6
12	Footnote 42	41	The additional footnote is welcomed and reinforces previous comments made by ensuring appropriate connectivity is reflected through developments.	The Examiner agrees with the District Council that connectivity is an important principle to any development and recommends that the wording in footnote 42 should be incorporated within the introductory paragraphs of Chapter 12 and criterion (b) of Policy NP11 for clarity and accuracy. See Recommendation 21.5
12	Tables 4-11	38-46	The Darley Dale Neighbourhood Plan has identified eight Character Areas across the Parish. For each one it has included a table summarising the main character features and seeks to set out approaches to the Future Management of these features as set out in Tables 4 -11. These 'Future Management' statements are considered to be policy expressions which should be included within the policies of the Neighbourhood Plan and should not be situated within the supporting text. The Future Management statements are in effect policy statements that are not referred to in Policies 12	The Examiner agrees with the District Council that the 'future management' column of Table 3 should be deleted given 'the content often strays into prescriptive detail and would not show appropriate regard to the NPPF'. The Examiner sets out that the changes are required to ensure clarity and to meet Basic Condition 1. See Recommendations 23.1 to 30.1

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			<p>to 19. The future management statements should be deleted from Tables 4-11 so that the Neighbourhood Plan provides a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by Paragraph 17 of the NPPF. With this modification Tables 4-11 will then serve the purpose of presenting a brief description of the various character areas of the Neighbourhood Area and will justify Policies NP12 to 19.</p>	
12	Policy NP 12 to NP19	38-46	<p>Paragraphs 58 to 60 of the NPPF state: “58. Local and Neighbourhood Plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:</p> <ul style="list-style-type: none"> • Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; • Establish a strong sense of place, using streetscapes and buildings to create attractive and 	<p>The Examiner agrees with the District Council that the opening sentence to each of the design policies should be revised to ensure that the design policies will be applied appropriately in the determination of related planning applications.</p> <p>The Examiner has recommended that the District Council’s suggested wording is used to revise Policies NP12 to NP19 for clarity and to meet Basic Condition 1.</p> <p>See Recommendations 23.2 to 30.2</p>

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			<p>comfortable places to live, work and visit;</p> <ul style="list-style-type: none"> • Optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public spaces as part of development) and support local facilities and transport networks; • Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation; • Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and • Are visually attractive as a result of good architecture and appropriate landscaping. <p>Paragraph 60. states that 'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to</p>	

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			<p>certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness’.</p> <p>Policies NP 12 to 19 seek to reinforce local distinctiveness. These policies set out features of residential development that will lead to schemes being supported. However it is considered that modification of policies NP 12 to 19 is necessary to avoid unnecessary prescription, to enable design response to the particular setting of a site, and so as not to stifle innovation or originality. The opening statement in each of these policies should be modified as follows: Delete the following in each of policies NP12 to NP19 <i>‘where the proposal demonstrates’</i> and Insert <i>‘Where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate...’</i></p>	
13	NP15 (b)	42	<p>Policy NP15 (b) requires further clarification regarding the phrase ‘routes run to the edge of sites’. The wording of this criteria is too restrictive and is inconsistent with the criteria set out in the Building for Life standards which requires that development should be well connected with the existing surrounding uses and provide appropriate linkages to improve connectivity across the wider neighbourhood.</p>	<p>The Examiner agrees with the District Council and recommends that the wording should be revised and that it should adopt the wording approach set out in the Building for Life design guidance. The revised wording will provide clarity and meet Basic Conditions 1 & 3.</p> <p>See Recommendation 26.2.2</p>

Chapter	Para/ Policy	Page No	DDDC Officer Comments	Summary of Examiners response and recommendations
			This wording should be revised to be consistent with the text that accompanies the policy as set out within Table 7 and footnote 42.	
14	137	47	Paragraph 137 sets out that <i>'Where applicable Darley Dale Town Council will also be actively involved as part of pre-application engagement process'</i> . Again additional wording should be inserted to clarify that this is a voluntary process and not statutory.	The Examiner sets out that the current wording could confuse the reader regarding the statutory planning application process and recommends revised wording for clarity. See Recommendation 33.1
14	138 Appendix D	47	Appendix D: refers to a new pre-application community engagement notification form. This is not a requirement of the Derbyshire Dales pre-application advice service. It is not made clear in the text that this service is being offered by Darley Dale Town Council. Again given that this is a voluntary requirement, further clarification should be provided on the form or the requirement should be removed.	The Examiner sets out that the current wording could confuse the reader regarding the planning process. He concludes that the 'Pre-application community engagement form is exclusively for use of the Town Council as an administrative rather than land use matter. Furthermore it has potential to confuse with the District Council's pre-application service and the statutory planning application process. He recommends that the form is deleted from the document for clarity. See Recommendation 33.2 & 35.

3. NEXT STEPS

- 3.1 Schedule 4B, Para 12, of the Town and Country Planning Act 1990 states that the Local Authority must be satisfied that the basic conditions are met and that the Neighbourhood Plan is compatible with the Convention rights.
- 3.2 The conclusions of the Examiner overall are that subject to modifications the Darley Dale Neighbourhood Plan is able to satisfy the 'basic conditions' as set out in Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to Neighbourhood Plans by section 38A of the Planning and Compulsory Purchase Act 2004, and that the plan should proceed to referendum in the Neighbourhood Area.
- 3.3 The Examiner has also suggested a number of modifications to the draft Darley Dale Neighbourhood Plan for the purpose of improving clarity in the plan and confidence

that it will be applied through the determination of planning applications. Such modifications will, subject to the outcome of any referendum, however, need to be incorporated into the final version of the Darley Dale Neighbourhood Plan.

- 3.4 In accordance with Paragraph 12 of Schedule 4B of the Town and Country Planning Act 1990, the District Council must:
- (a) consider each of the recommendations made by the examiner in his report (and the reasons for them), and
 - (b) decide what action to take in response to each recommendation
- 3.5 A schedule of the Examiner's recommendations and the recommended response to each has been prepared and is set out in Appendix 2 to this report.
- 3.6 Subject to the inclusion of the modifications as set out in Appendix 2 it is recommended that the District Council confirms that the Darley Dale Neighbourhood Plan has met the basic conditions as required by Paragraph 8(1)(a) of Schedule 4B to the Town and Country Planning Act 1990.
- 3.7 It is further recommended that the schedule of modifications set out in Appendix 2 form the basis for taking forward the Darley Dale Neighbourhood Plan to referendum.
- 3.8 Should the recommendation of this Report be accepted, the District Council is required to issue a decision statement to the Qualifying Body, Darley Dale Town Council, and anyone who requested to be notified in accordance with the 1990 Act Schedule 4B Para 12.
- 3.9 It is part of the Examiner's remit to consider if the referendum area should extend beyond the Neighbourhood area. The Examiner considers the Neighbourhood Area to be appropriate and no evidence was submitted to suggest that this is not the case. The referendum should therefore proceed on the basis of the Darley Dale Neighbourhood Plan Area as approved by the Council on 18th August 2014.
- 3.10 Having accepted that the Darley Dale Neighbourhood Plan has met the basic conditions (subject to modifications), the plan can move forward to be considered at a local referendum within the Parish. The District Council is responsible for making the necessary arrangements for the referendum to be held, at which the following question defined in the Neighbourhood Planning (Referendums) Regulations 2012, Schedule 1 is asked:

Do you want Derbyshire Dales District Council to use the neighbourhood plan for Darley Dale to help it decide planning applications in the neighbourhood area?

- 3.11 A simple majority of all votes cast is sufficient for the Darley Dale Neighbourhood Plan to have a mandate to be taken forward into the Development Plan for Derbyshire Dales.
- 3.12 A further report will be presented to Members once the outcome of the referendum is known.

4 RISK ASSESSMENT

4.1 Legal

In compliance with Paragraph 6(2) of the Schedule, the local authority designated Darley Dale as a Neighbourhood Area and since this designation the Darley Dale Town Council has prepared a neighbourhood plan for consideration. The Council has followed the consultation requirements set out within The Neighbourhood Planning (General) Regulations 2012 and before proceeding to a referendum the Local Authority must be satisfied that the basic conditions set out in Schedule 4B of the Town and Country Planning Act have been met.

At this stage the legal risk is considered low.

4.2 Financial

The costs associated with the Neighbourhood Plan (mainly officer time, publicity and the independent examination) will be reclaimed through a government grant. The financial risk is, therefore, assessed as low.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6 CONTACT INFORMATION

Claire Francis, Planning Policy Officer
Email: claire.francis@derbyshiredales.gov.uk
Tel: 01629 761243

7 BACKGROUND PAPERS

Description	Date	File
Darley Dale Neighbourhood Development Plan	November 2019	https://www.derbyshiredales.gov.uk/darleydaleNP
Representations received on Darley Dale Neighbourhood Plan – Regulation 16 responses	April 2019	https://www.derbyshiredales.gov.uk/planning-a-building-control/planning-policy/neighbourhood-planning/darley-dale-neighbourhood-plan
Darley Dale Neighbourhood Plan Basic Conditions Statement (November 2018)	November 2018	https://www.derbyshiredales.gov.uk/images/documents/D/Darley_Dale_Neighbourhood_Plan_Basic_Conditions_Statement_Nov18_30112018.pdf
Darley Dale Neighbourhood Plan Consultation Statement (November 2018)	November 2018	https://www.derbyshiredales.gov.uk/images/documents/D/Darley_Dale_NP_Consultation_Survey_September_2018.pdf
Correspondence between the Examiner to the Darley Dale Town Council	August – September 2019	https://www.derbyshiredales.gov.uk/planning-a-building-control/planning-policy/neighbourhood-planning/darley-dale-neighbourhood-plan
Community & Environment Committee Report 25 th June 2019 Agenda item 9	25 th June 2019	https://www.derbyshiredales.gov.uk/images/AGENDA_26-06-19_Community_Environment_Committee.pdf
Examiner's Report	26 th September 2019	Appendix One
Council's response to recommendations	30 th October 2019	Appendix Two

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DARLEY DALE NEIGHBOURHOOD PLAN 2017 - 2033

**The Report of the Independent Examiner to Derbyshire Dales District Council
on the Darley Dale Neighbourhood Plan**

**Andrew Matheson MSc MPA DipTP MRTPI FCIH
Independent Examiner
26th September 2019**

Summary

I was appointed by Derbyshire Dales District Council, in agreement with the Darley Dale Town Council, in June 2019 to undertake the Independent Examination of the Darley Dale Neighbourhood Plan.

The Examination has been undertaken by written representations. I visited the Neighbourhood Area on 10th September 2019.

The Neighbourhood Plan proposes a local range of policies and seeks to bring forward positive and sustainable development in the Darley Dale Neighbourhood Area. There is an evident focus on safeguarding the very distinctive, largely rural character of the area whilst accommodating future change and growth.

The Plan has been underpinned by extensive community support and engagement. The social, environmental and economic aspects of the issues identified have been brought together into a coherent plan which adds appropriate local detail to sit alongside the Derbyshire Dales Local Plan.

Subject to a series of recommended modifications set out in this Report I have concluded that the Darley Dale Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.

I recommend that the referendum should be held within the Neighbourhood Area.

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Introduction

This report sets out the findings of the Independent Examination of the Darley Dale Neighbourhood Plan 2017 - 2033. The Plan was submitted to Derbyshire Dales District Council by Darley Dale Town Council in their capacity as the 'qualifying body' responsible for preparing the Neighbourhood Plan.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. A new NPPF was published in July 2018 (and updated in February 2019) but the transitional arrangements in para 214 Appendix 1 on Implementation apply and thus this Examination is unaffected by the changed NPPF; accordingly all references to the NPPF in this Report are to the original 2012 NPPF document (unless otherwise indicated).

This report assesses whether the Darley Dale Neighbourhood Plan is legally compliant and meets the 'basic conditions' that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text. This report also provides a recommendation as to whether the Darley Dale Neighbourhood Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome, the Darley Dale Neighbourhood Plan would then be used in the process of determining planning applications within the Plan boundary as an integral part of the wider Plan.

The Role of the Independent Examiner

The Examiner's role is to ensure that any submitted Neighbourhood Plan meets the legislative and procedural requirements. I was appointed by Derbyshire Dales District Council, in agreement with Darley Dale Town Council, to conduct the examination of the Darley Dale Neighbourhood Plan and to report my findings. I am independent of both Derbyshire Dales District Council and Darley Dale Town Council. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector body as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In my role as Independent Examiner I am required to recommend one of the following outcomes of the Examination:

- the Darley Dale Neighbourhood Plan is submitted to a referendum; or
- the Darley Dale Neighbourhood Plan should proceed to referendum as modified (based on my recommendations); or
- the Darley Dale Neighbourhood Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. If recommending that the Neighbourhood Plan should go forward to referendum, I must then consider whether or not the referendum area should extend beyond the Neighbourhood Area to which the Plan relates.

In examining the Plan, I am also required, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

These are helpfully covered in the submitted Basic Conditions Statement and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

In undertaking this examination I have considered the following documents:

- Darley Dale Neighbourhood Plan 2017 - 2033 as submitted
- Darley Dale Neighbourhood Plan Basic Conditions Statement (November 2018)
- Darley Dale Neighbourhood Plan Consultation Statement with Appendices (August 2018)
- Sustainability Appraisal and Strategic Environmental Assessment Screening Report Darley Dale Neighbourhood Development Plan (June 2018)
- Content at: www.darleydale.gov.uk/neighbourhood-plan.html
- Content at: www.derbyshiredales.gov.uk/planning-a-building-control/planning-policy/neighbourhood-planning/darley-dale-neighbourhood-plan
- Representations made to the Regulation 16 public consultation on the Darley Dale Neighbourhood Plan
- Derbyshire Dales Local Plan 2013 - 2033 adopted in December 2017
- National Planning Policy Framework (NPPF) (2012, 2018 & 2019)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

I carried out an unaccompanied visit to the Neighbourhood Area on 10th September 2019. I looked at each of the settlements and the countryside within Darley Dale. I also viewed all the various sites and locations identified in the Plan document.

The legislation establishes that, as a general rule, Neighbourhood Plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Darley Dale Neighbourhood Plan could be examined without the need for a public hearing. The Qualifying Body and the Local Planning Authority have helpfully responded to my enquiries so that I may have a thorough understanding of the facts and thinking behind the Plan, and the correspondence has been shown on the Derbyshire Dales District Council Neighbourhood Planning website for the Darley Dale Neighbourhood Plan.

Darley Dale Neighbourhood Area

A map showing the boundary of the Darley Dale Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by Darley Dale Town Council, Derbyshire Dales District Council approved the designation of the Neighbourhood Area on 18th August 2014. This satisfied the requirement in line with the purposes of preparing a Neighbourhood Plan under section 61G(1) of the Town and Country Planning Act 1990 (as amended).

Consultation

In accordance with the Neighbourhood Planning (General) Regulations 2012, the Qualifying Body have prepared a Consultation Statement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its Neighbourhood Plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging Neighbourhood Plan [or Order]
- is made aware of how their views have informed the draft Neighbourhood Plan [or Order].” (Reference ID: 41-047-20140306)

The Consultation section of the Plan notes that consultations were undertaken “to ensure that local people of all ages and from across the parish can shape and influence the scope and intent of this Neighbourhood Plan”. Poster publicity and 5 public consultations were held during 2014. At these consultations attendees were asked: ‘What do people most value about Darley Dale?’, ‘What do people like least or would like to improve?’ and ‘What else does Darley Dale need?’. The responses helped to inform the questionnaire survey of 2500 households in early 2015 which was followed by an exhibition/display of the results on the Town Council web site and at the Whitworth Institute. Feedback from the Household Questionnaire was collated and summarised in reports available as supporting evidence to the Plan. Also in 2015 there was a school consultation and consultations with local businesses and potential developers. The Parish Magazine, Community Voice, has been used to publicise the Neighbourhood Plan and Whitworth Trust development proposals. In preparation for the pre-submission consultation the draft Plan was put on the Town Council website, Community Voice had a special feature on both the draft Plan and the Local Plan and gave publicity for the consultation meetings. The Regulation 14 consultation took place from 4th April to 14th May 2016 but was repeated from 12th March to 4th June 2018 as the adoption of a new Derbyshire Dales Local Plan and the changes made to the Neighbourhood Plan after the 2016 consultation made this desirable. The feedback and resultant changes made to the draft Plan following the Regulation 14 consultation (with other background detail) have been included with the Consultation Statement submitted alongside the Plan. It is evident that the double consultation exceeded the statutory requirement and meant that the Plan was available for 3 to 4 months for formal comment (in addition to the earlier less formal opportunities).

However, I note that a few representations comment that they have heard very little/too little about the consultation process prior to the notification from the local authority. Two particular representations query the extent to which contributions from young people – the next generation – and voluntary groups have been sought through the consultation process. I can see that the consultation process has been spread across a number of years and it is inevitable that there will have been variations in the level of consultation, particularly perhaps pre and post Local Plan adoption. The Qualifying Body has commented:

“As the Plan makes clear, Darley Dale is a collection of settlements, and it is to these settlements that residents tend to feel their primary loyalty. People describe themselves as living in Two Dales, or Hackney, or Churchtown first and Darley Dale second. If the town has a “heart” it is most probably the Whitworth Centre and Park but these can feel rather remote from Farley or Morledge. Peoples’ concerns about the development of their area thus tend to be highly localised, as the recent concerns about the Hackney Lane site illustrate.

This lack of a “Town” identity may partly explain the relatively low levels of response in the consultation process - although consultations were held in several different parts of the town.

It was probably also a factor in the Working Group's decision to adopt a criteria-led approach to development rather than to propose specific sites.

The consultation process was concentrated in two main periods - mid 2014 to mid 2015, and late 2017 to mid 2018. Considerable publicity in the local press and social media was given to local consultations and copies of the draft plan were available at several locations in Darley Dale. Local associations and organisations were contacted. Participation in consultation sessions varied from just a handful of people to thirty to forty in a session. However the response to the household questionnaire was 10% (some 250 out of 2500 households) - almost twice the response rate to the draft Local Plan. Throughout the last 5 years progress on the Neighbourhood Plan has been on the agenda at each Town Council meeting and the Council website has carried drafts of the main documents." I also note that young people were particularly involved in looking at the potential of Whitworth Park.

Accordingly, overall I am satisfied that the consultation process accords with the requirements of the Regulations and the Practice Guidance and that, in having regard to national policy and guidance, the Basic Conditions have been met. In reaching my own conclusions about the specifics of the content of the Plan I will later note points of agreement or disagreement with Regulation 16 representations, just as the Qualifying Body have already done for earlier consultations. That does not imply or suggest that the consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

Representations Received

Consultation on the submitted Plan, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Derbyshire Dales District Council from 26th February to 9th April 2019. I have been passed the representations – 45 in total – which were generated by the consultation and which have now been included alongside the details of the Plan on the Derbyshire Dales District Council Neighbourhood Planning website. I have not mentioned every representation individually within the Report but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

The Neighbourhood Plan

Darley Dale Town Council is to be congratulated on its extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2033. I can see that a sustained effort has been put into developing a Plan with a vision that "In 15 years' time Darley Dale Parish will be a welcoming and thriving community for all ages. It will still be a predominantly rural area but it will also provide a high-quality environment in which to live, work and spend leisure time. New development will have blended sensitively with the existing character of the settlements. Great care will have been taken to protect the special landscape which defines the Parish so that the buildings and landscape continue to inspire local people and visitors alike". The Plan document is well presented with a distinctive combination of text, clear images and Policies that are, subject to the specific points that I make below, well laid out and helpful for the reader. The Plan has been kept to a manageable length by not overextending the potential subject matter and the coverage of that.

It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained

in an appropriately modified wording for the policy. It is evident that the community has made positive use of “direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area” (Planning Practice Guidance Reference ID: 41-001-20140306).

Individually I can see that the Policies address legitimate matters for a Neighbourhood Plan as identified with the community. I will later look at the Policies in turn so as to ensure that the Basic Conditions are met, which include an obligation to have regard to Local Plan strategic policies.

Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It works from a positive vision for the future of the Neighbourhood Area and promotes policies that are, subject to amendment to variable degrees, proportionate and sustainable. The Plan sets out the community’s priorities whilst seeking to identify and safeguard Darley Dale’s distinctive features and character. The plan-making had to find ways to reconcile the external challenges that are perceived as likely to affect the area with the positive vision agreed with the community. All such difficult tasks were approached with transparency, with input as required and support from Derbyshire Dales District Council.

However, in the writing up of the work into the Plan document, it is sometimes the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the selected policy. This is not uncommon in a community-prepared planning document and something that can readily be addressed in most instances. Accordingly I have been obliged to recommend modifications so as to ensure both clarity and meeting of the ‘Basic Conditions’. In particular, Plan policies as submitted may not meet the obligation to “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17). I bring this particular reference to the fore because it will be evident as I examine the policies individually and consider whether they meet or can meet the ‘Basic Conditions’.

Basic Conditions

The Independent Examiner is required to consider whether a Neighbourhood Plan meets the “Basic Conditions”, as set out in law following the Localism Act 2011; in December 2018 a fifth Basic Condition was added relating to the Conservation of Habitats and Species Regulations 2017. In order to meet the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the Plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

The submitted Basic Conditions Statement has very helpfully set out to address the issues in relation to the first four of these requirements in the same order as above and, where appropriate, has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the Local Plan is the Derbyshire Dales Local Plan adopted in December 2017. At the time of Neighbourhood Plan submission the fifth Basic Condition had not been added but as the Plan does not allocate land for development and is supportive of Darley Dale’s rural features, I am satisfied that the making of the Plan will not breach the Basic Condition relating to the Habitats and Species Regulations 2017.

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Basic Conditions Statement and other available evidence as appropriate.

The Plan in Detail

I will address the aspects of the Neighbourhood Plan content that are relevant to the Examination in the same sequence as the Plan. Recommendations are identified with a bold heading and italics, and I have brought them together as a list at the end of the Report.

Front cover

A Neighbourhood Plan must specify the period during which it is to have effect. I note that there two references to the Plan period 2016 – 2033 and 2017 – 2033; a correction needs to be made. Whilst the dates are prominently and helpfully on the front cover, since the Plan cannot be retrospective and it will not have effect until 2019 at the earliest, the Plan period ought to be 2019 - 2033.

Recommendation 1:

Remove from the front cover wording relating to the submission status of the Plan and amend the Plan period (here and in all other Plan references) to 2019 - 2033.

Contents

The Contents list will need to be reviewed once the text has been amended to accommodate the recommendations from this Report. I note the footnote here and throughout the document about the way in which the Plan policies will be applied; like Derbyshire Dales District Council I believe this is a helpful note for readers.

Recommendation 2:

Review the “Contents” pages once the text has been amended to accommodate the recommendations from this Report.

1 What is the Darley Dale Neighbourhood Plan?

This is a helpful introductory section but it should be explained that the Parish is the “Neighbourhood Area” for the purposes of the Plan.

Recommendation 3:

Under the heading “What is the Darley Dale Neighbourhood Plan?” in the second sentence of paragraph 2 insert after “It covers” the following: ‘the Neighbourhood Area which is’; amend the title of Map 1 to ‘Area’ in place of “Plan area”.

2 Why do we want a Neighbourhood Plan?

The “we” in the title here is inappropriate since the Plan is about to become part of the wider Development Plan.

Recommendation 4:

Retitle section 2 as: ‘Why is a Neighbourhood Plan needed?’.

3 How does this Neighbourhood Plan fit with District and national planning policies?

Strictly speaking the Development Plan does not include the National Planning Policy Framework, although that does provide the basis for the preparation for the Development Plan documents. Similarly it cannot be said that the Neighbourhood Plan will have “significant weight” in the determination of planning applications, mainly because it will not always be relevant or will be relevant to varying degrees. Although the section heading

suggests the relationship with “national planning policies” will be addressed, in fact this has been omitted.

The representation from the local authority noted that the detail of housing sites allocated in the Local Plan is incorrect as the sites number four not three – the one omitted is at Stancliffe Quarry. The Qualifying Body agrees that this was a drafting error and that a correction is required in the table that follows paragraph 13.

The representation from the Peak District National Park Authority (whilst acknowledging the content in Section 11) suggests that this section ought to make reference to the duty to have regard to the purposes of the National Park. Both the Qualifying Body and the Local Authority have agreed that such added contextual detail would be helpful.

A representation suggests that the Plan ought to include a map of “the future development boundary” by which I believe is meant the Settlement Development Boundary. I can see that the inclusion of such a map within this section might be the most appropriate place for its inclusion and it could be of practical benefit to prospective developers. Both the Local Authority and the Qualifying Body agree that this would be appropriate although the latter pointed out that the Settlement Development Boundary is included for a different purpose within Appendix D (on which I will comment later).

Recommendation 5:

5.1 Reword paragraph 10 as:

‘The Neighbourhood Plan, when ‘made’, will form part of the development plan for Derbyshire Dales which will be applicable within the Neighbourhood Area, which also includes the Derbyshire Dales Local Plan 2013 – 2033, the Derbyshire Minerals Local Plan (November 2002) [reference needed] and the Derbyshire Waste Local Plan (March 2005) [reference needed].’

5.2 In paragraph 13 in the first sentence add ‘dwellings’ after “5680” and the second sentence replace “three” with ‘four’; in the tabulation that immediately follows the paragraph add a fourth line:

HC2m	Land at Stancliffe Quarry	10.16ha	100
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5.3 Add to paragraph 14 the closing quotation mark at the end of the paragraph and text as follows:

‘Under Policy S3 of the Local Plan a Settlement Development Boundary for Darley Dale is defined as shown on Map 2.’

5.4 Title and provide a source reference for the new Map 2 sourced from the District Council; alter the numbering of subsequent maps accordingly.

5.5 Item (g) within paragraph 17 should be corrected to ‘Darley Dale’.

5.6 Paragraph 18 should be made a footnote (correcting the paragraph reference) and replaced with:

‘Neighbourhood Plans are required to “have regard to national policies and advice contained in guidance issued by the Secretary of State”; national policies are primarily set down within the National Planning Policy Framework (NPPF) and guidance is set down in the Planning Practice Guidance (PPG) (both of these are updated from time to time). As the Neighbourhood Area is adjacent to, and in places contiguous with, the boundary of the Peak District National Park, the 1995 Environment Act places a duty on “relevant authorities” to have regard to the purposes of the National Park.’

4 Consultation

This is a helpful and brief summary.

5 Darley Dale in context

This is a helpful overview but there are a few matters of detail to be addressed. A representation queries why the maps of existing employment locations omit the Langrove Mill site but the Local Authority has advised that as this site is not identified as an existing employment site within the Derbyshire Dales Local Plan its inclusion might cause confusion.

The Qualifying Body has suggested that, for clarity, the paragraph 40 bullet point “Rivers and streams” should be amended to ‘River Derwent and streams’.

Recommendation 6:

Under the heading “Darley Dale in context”:

6.1 In paragraph 40 amend the bullet point “Rivers and streams” to ‘River Derwent and streams’.

6.2 Correct a typographical error in paragraph 43 by replacing “opens” with open and add ‘Policy’ before “PD10”.

6.3 Provide the sources for the data illustrated on Maps 3 & 4 and for Map 4 add ‘Local Plan’ before “Policy PD10” in the title.

6.4 In paragraph 50 remove the inverted comma after “Parish”.

6 Community Vision

No comment.

7 Community Objectives

I note that Objective 1(b) incorrectly refers to “Darley Dales Place Analysis”. The footnote to Objective 5 suggests that it is not an Objective but an “aspirational *policy*”, and then in Section 9 it becomes a “Key Principle”.

Recommendation 7:

Under the heading “Community Objectives”:

7.1 Within Community Objective 1(b) replace “Dales” with ‘Dale’.

7.2 Delete footnote 23 and revise the wording of Community Objective 5 as: ‘Encouraging voluntary pre-application community engagement so that developers can identify and address community priorities for the particular location proposed.’

8 Sustainable Development Principles

As with the Contents list, section 5 will need to be reviewed once the Plan policies have been amended to accommodate the recommendations from this Report. There are also two typographical errors in the text.

Recommendation 8:

8.1 Review section 5 in the light of changes to the Policies as recommended in this Report.

8.2 In the first sentence of paragraph 63 delete “how” between “that” and “development” and in the third line of paragraph 64 replace “being” with ‘bring’.

9. Engagement with the Community: A Key Principle

Whilst it is made clear within this section that the pre-application engagement sought is a voluntary process, and the representation from the local authority is keen to ensure that this is absolutely clear, it seems strange that the body that will make the ultimate decision on the planning application (and will thereby apply the Policies in the Neighbourhood Plan) is apparently excluded from mention. The Neighbourhood Plan is intended to encapsulate the community's policy positions to better inform prospective developers and planning decisions but it cannot amend the statutory determination procedures. The Qualifying Body has responded that: "The principle of pre-application community engagement both in policy making and in determining planning applications is endorsed in the NPPF. The NP [Neighbourhood Plan] is not excluding DDDC from the process – but setting out the preferred approach with the community in terms of engagement. It is expected and understood that DDDC are the decision makers [and] this is set out in the opening section para 1(1)." For clarity however I believe it would be worth repeating that here. I will later comment on the inclusion of Appendix D (Pre-Application Community Engagement Form) within the Neighbourhood Plan.

Recommendation 9:

Within the section headed "9. Engagement with the Community: A Key Principle":

9.1 Add to paragraph 69:

'All decisions on planning applications are undertaken by Derbyshire Dales District Council as the Local Planning Authority'.

9.2 Correct the opening to Key Principle 1 as:

'Applicants submitting a major development proposal or a proposal for'

9.3 Replace the opening of Key Principle 2 with:

'Applicants are encouraged to include within their application submission details of:.....'

10. Protecting the Landscape Character of Darley Dale

It is puzzling why most policies comprise solely a section numbered "1" (that is then followed by a number of criteria). Since there is no second section then the "1" appears superfluous. Having said this, I suggested to the Qualifying Body that it might be helpful to prospective developers to have the content of the "Landscape Character" policies combined with the "Design Principles" content – resulting in single policies with two primary elements. Whilst the Local Authority identified that the suggestion would "be in line with the Derbyshire Dales Local Plan, which seeks to address key issues relating to design and landscape under an interrelating theme 'Chapter 5: Protecting Derbyshire Dales Character'", the Qualifying Body noted that the two Policies had been split to avoid them being too wordy. On balance the simpler amendment of removing the superfluous numbering is sufficient.

Paragraph 81 says that "specific support will [also] be given for implementing Green Infrastructure initiatives" but it is not an actual feature of the Plan. A representation notes with dismay that "the valley floor and the river and its habitat are not even mentioned in this section". The Qualifying Body responded that "It was not considered necessary to provide specific information on the biodiversity of the river valley in addition to that already in the Local Plan (see section on Environmental Quality and Health). The River is described at para 36. However, the contribution of the river valley to landscape character is recognised and it is identified as a key attribute at para 40 – it is suggested that the bullet point 'rivers and streams' could be amended to the 'River Derwent and streams.'

Corridor number 1 after para 78 page 27 identifies the A6/Derwent Corridor – for clarity this might also be shown as the River Derwent.

Recommendation 10:

Under the heading 'Protecting the Landscape Character of Darley Dale':

10.1 In the table within paragraph 78 in the first line of column two amend “A6/Derwent corridor” to ‘A6/River Derwent corridor’.

10.2 Delete paragraph 81 and renumber subsequent paragraphs accordingly.

NP 1: Protecting the Landscape Character of Darley Dale

The Local Authority representation notes that criteria (e) duplicates the Derbyshire Dales Local Plan Policy PD5 and is not necessary. The Qualifying Body commented that “[Policy] NP1 is intended as an overarching policy that establishes the key development principles – not building on the steep slopes is one of them”. On that basis and because there is a general conformity with the Local Plan Policies no amendment is required.

Recommendation 11:

Within Policy NP 1: Protecting the Landscape Character of Darley Dale delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

As amended Policy NP 1 meets the Basic Conditions.

Policy NP 2 Protecting the Landscape Character of Darley Hillside

Recommendation 12:

Within Policy NP 2: Protecting the Landscape Character of Darley Hillside delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

As amended Policy NP 2 meets the Basic Conditions.

Policy NP 3 Protecting the Landscape Character of Broadwalk

Recommendation 13:

Within Policy NP 3: Protecting the Landscape Character of Broadwalk delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

As amended Policy NP 3 meets the Basic Conditions.

Policy NP 4 Protecting the Landscape Character of Churchtown

I felt that the phrase “strong visual links have been maintained with both the ridge lines and the valley sides” lacked clarity as to the expectation of developers. The Qualifying Body responded: “Churchtown is described in the Place Analysis as a loose ribbon settlement. As Churchtown sits in the valley bottom and development is fragmented, the gaps between the buildings and the trees allow glimpses to the ridgelines on either side of the valley (the west side being outside the Plan area) as well as long views up and down the valley. To maintain these visual links any new development needs to be low density and to ensure that gaps remain between buildings and that the plots follow the linear development pattern (so you can glimpse the wider valley from within the character area).” The clarification ought therefore to form the basis for an amendment.

Recommendation 14:

Within Policy NP 4: Protecting the Landscape Character of Churchtown’:

14.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

14.2 Amend criterion (a) to read:

‘Plots that follow the linear development pattern with gaps sufficient to glimpse the wider valley from within the character area’.

As amended Policy NP 4 meets the Basic Conditions.

Policy NP 5 Protecting the Landscape Character of Parkway and Oker

I queried the intent of the phrase “a layout ... that maintains the visual connections with the ridge lines so that the ridgelines are visible between buildings”. The Qualifying Body supplied an alternative wording which is less obscure. I also queried the intent of the phrase: “roads and footpaths should run to the edge so that they connect and integrate with adjoining areas”. The Local Authority also expressed a concern that the phrase is too restrictive and conflicts with the criteria set out in Policy PD1 of the Derbyshire Dales Local Plan and may also be inconsistent with Building for Life Standards. The Qualifying Body explained that “Parkway especially does not integrate with the rest of Darley Dale being a single access estate. The road loops around internally and this type of layout makes walking distances long, and makes it more likely that people use their cars and is not desirable.” I believe that the wording from Building for Life would address this issue satisfactorily but this is more of a design than a landscape issue and therefore will be addressed later under Policy NP 15.

Recommendation 15:

Within Policy NP 5 Protecting the Landscape Character of Parkway and Oker:

15.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

15.2 Within criterion (a) replace the phrase “that maintains the visual connections with the ridge lines so that the ridgelines are visible between buildings” with ‘allows glimpsed views onto the backdrop of local hills avoiding building across the end of streets where this blocks off views to the wider countryside’.

15.3 Delete criterion (b).

As amended Policy NP 5 meets the Basic Conditions.

Policy NP 6 Protecting the Landscape Character of Two Dales

Recommendation 16:

Within Policy NP 6 Protecting the Landscape Character of Two Dales:

16.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

16.2 Within criterion (b) add ‘that’ between “layout” and “follows”.

As amended Policy NP 6 meets the Basic Conditions.

Policy NP 7 Protecting the Landscape Character of Lower Hackney

I queried the wording of criterion (b) because it seemed to accommodate “ridgeline” development but page 26 of the Plan had seemed to suggest that the ridgeline or upper slopes are valued for their lack of development. The Qualifying Body agreed that the reference to the ridgeline ought to be deleted.

Recommendation 17:

Within Policy NP 7 Protecting the Landscape Character of Lower Hackney:

17.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

17.2 Within criterion (b) delete the words “or the ridgeline”.

17.3 At the end of criterion (c) add ‘and’.

17.4 At the end of criterion (d) add a full stop.

As amended Policy NP 7 meets the Basic Conditions.

Policy NP 8 Protecting the Landscape Character of Upper Hackney

Recommendation 18:

Within Policy NP 8 Protecting the Landscape Character of Upper Hackney delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

As amended Policy NP 8 meets the Basic Conditions.

Policy NP 9 Protecting the Landscape Character of Farley

Recommendation 19:

Within Policy NP 9 Protecting the Landscape Character of Farley delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.

As amended Policy NP 9 meets the Basic Conditions.

11 Protecting the Setting of the Peak District National Park

Paragraph 109 says that pre-application engagement will “seek to ensure that proposals for major development will not have a visual impact on the setting” of the National Park; however paragraph 110 is more accurate in suggesting that the visual impact of proposals will be assessed and addressed. All development will have some impact.

It is apparent that the reference to “NP 9” at paragraph 110 should be ‘NP 10’.

The representation from the local authority suggests that this Policy duplicates rather than “works in conjunction with” Policy PD5 of the Local Plan. The Qualifying Body has commented that they are keen to have a policy of this sort in their Plan as it reflects the community’s concern about the impact of major development in the Parish on the setting of the National Park. However, disparities of wording can often serve to confuse and provide the basis for differences that might be exploited and sometimes less can be more. In particular it is difficult to see how criterion 2 might be relevant since there is no part of the Neighbourhood Area that is *within* the National Park and some rewording is required. The Policy must provide “a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency” (NPPF para 17).

Recommendation 20:

Under the heading “Protecting the Setting of the Peak District National Park”:

20.1 In paragraph 106 insert the closing inverted comma at the end of the paragraph.

20.2 In paragraph 109 replace “will not have a visual impact” with ‘will appropriately assess and address their impact’.

20.3 In paragraph 110 replace “NP 9” with ‘Policy NP 10’.

20.4 Reword Policy NP 10 as follows:

‘The impact on the Peak District National Park and its setting of major development proposals within the Neighbourhood Area should be assessed and addressed to ensure that their design, layout and boundary treatments are appropriate.’

As amended Policy NP 10 meets the Basic Conditions.

12. The Importance of Good Design in Residential Development

Paragraph 112 acknowledges the importance that the NPPF places on good design. However the NPPF (para 59) also says that “design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally”.

The representation from the local authority suggests that bullet point 3 in the tabulation on page 36 and the related footnote 38 add nothing to Policy HC1 in the Local Plan and therefore they are not needed (especially if differences of wording give rise to confusion) eg who defines what is the “built-up area”. The Qualifying Body accepted that this is reasonable and they acknowledged the defined Settlement Development Boundary within the Local Plan.

Paragraph 119 says that the Plan “encourages” the use of BfL12; paragraph 123 says that the Plan “requires” the use of BfL12. The Qualifying Body acknowledged that ‘encourages’ is correct.

In relation to footnote 42 on page 41 the Local Authority has commented that connectivity is an important principle to any development (not just Parkway and Oker). Therefore the wording ought to be incorporated within the introductory paragraphs of Chapter 12 and criterion (b) of Policy NP 11 might be altered to better pick up the issue.

Recommendation 21:

Under the heading “The Importance of Good Design in Residential Development”:

21.1 In paragraph 115 insert ‘Policies’ before “NP 12 – NP 19” and change the last word from “areas” to ‘area’.

21.2 In paragraph 117 add ‘Policy’ before “PD1”.

21.3 In Table 3 delete row/bullet point 3 and the related footnote 38; also in row 4 delete the duplicate ‘bullet’ symbol.

21.4 At the end of paragraph 119 delete the last sentence (and delete Appendix C); it is sufficient to reference the Building for Life guidance, not least because the guidance may vary over the lifetime of the Plan.

21.5 Delete the incorrect paragraph 123 and replace this with the wording of footnote 42 on page 41; renumber subsequent footnotes accordingly.

21.6 Insert ‘Policy’ before all the Policy numbers in paragraphs 125 and 127.

21.7 In paragraph 128 insert ‘and’ between “character” and “what”; replace “at NP” with ‘in Policies NP’.

Policy NP 11: Design Principles for C3 Residential Development

A representation queries why “design principles” should only apply to residential development (and C3 residential development at that). The Qualifying Body responded that “The community want all development to be of a high design standard but the focus of concern related to housing development principally for C3 use”.

I have noted that criterion (d) appears to allow a choice between using the “principals” (*sic*) in the “Darley Dale Place analysis” or those in the “Table 3” summary – Policy NP11 also says that it sets down “principles”. Given that the three do not all say the same thing (although they may be based around the same ideas) there is confusion about to which set

of “principles” a designer is to work. As the detailed policies derive from the Darley Dale place analysis then they must be the most significant “principles”. The Qualifying Body agreed that the detailed policies derive from the Place Analysis and that the summary tables are only intended to provide an accessible summary of the description of the character areas.

Criteria 3 and 4 appear to address the same point in different words. The Policy is clear that the use of “BfL12 or equivalent” will be “encouraged” but then suggests that a minimum score of “9 greens” should be achieved. As noted in paragraph 119, BfL is part of the design process rather than an obligatory part of planning consenting.

Recommendation 22:

Within Policy NP 11 Design Principles for C3 Residential Development:

22.1 Replace the semi-colon at the end of the introductory sentence with a colon.

22.2 Within criterion (b) add ‘, particularly’ between “ages” and “to access”.

22.3 Reword criterion (d) as: ‘regard for the content of the Darley Dale Place Analysis [footnote reference] (which is briefly summarised in Table 3)’; add a footnote reference to the Place Analysis.

22.4 Merge criteria 3 and 4 as:

‘For major developments ⁴¹, the use of national design guidance (BfL12 or equivalent) in developing design concepts, testing the final designs for quality and demonstrating how local distinctiveness has been reinforced.’

As amended Policy NP 11 meets the Basic Conditions.

Table 4 and Policy NP 12: Design Principles for C3 Residential Development in Darley Hillside.

In relation to Table 4 (and its equivalents for the other character areas), as the “Future Management” column does not relate to any Policy content, the Local Authority has suggested that column ought either to be incorporated within the Policy or be deleted. I believe that the deletion option is to be preferred since the content often strays close to or into prescriptive detail (which would not show appropriate regard for the NPPF).

The Local Authority has also suggested that Policy NP 12 (and its equivalent for the other character areas) ought to have a revised opening which is acceptable to the Qualifying Body and I agree that this would help ensure that the Policies will be applied appropriately in the determination of related planning applications.

Recommendation 23:

23.1 Remove “and Future Management” from the title of Table 4 and within the Table delete the column headed “Future Management” and in the 4th row (about “Plots”) amend “places” to ‘placed’.

23.2 Within Policy NP 12:

23.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Darley Hillside where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

23.2.2 In criterion (a) replace “is inspired by the use of a” with ‘inspiration taken from’.

As amended Policy NP 12 meets the Basic Conditions.

Table 5 and Policy NP 13 Design Principles for C3 Residential Development in Broadwalk

Recommendation 24:

24.1 Remove “and Future Management” from the title of Table 5 and within the Table delete the column headed “Future Management”.

24.2 Within Policy NP 13:

24.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Broadwalk where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

24.2.2 In criterion (c) replace “is inspired by the use of” with ‘inspiration taken from’.

As amended Policy NP 13 meets the Basic Conditions.

Table 6 and Policy NP 14 Design Principles for C3 Residential Development in Churchtown

Recommendation 25:

25.1 Remove “and Future Management” from the title of Table 6 and within the Table delete the column headed “Future Management”.

25.2 Within Policy NP 14:

25.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Darley Hillside where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

25.2.2 In criterion (a) replace “is inspired by the range of” with ‘inspiration taken from’.

As amended Policy NP 14 meets the Basic Conditions.

Table 7 and Policy NP 15 Design Principles for C3 Residential Development in Parkway and Oker

Footnote 42 on page 41 was deleted within an earlier recommendation. As with Policy NP 5 I queried the intent of the phrase “routes run to the edge of the site to improve pedestrian and vehicular connectivity”. The Local Authority also expressed a concern about the phrase. The resolution reached earlier but to be applied with Policy NP 15 was to adopt the wording approach from BfL12.

Recommendation 26:

26.1 Remove “and Future Management” from the title of Table 7 and within the Table delete the column headed “Future Management”.

26.2 Within Policy NP 15:

26.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Parkway and Oker where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

26.2.2 Replace criterion (b) with ‘a development that is well connected and provides appropriate linkages to improve connectivity across the wider neighbourhood; and’.

26.2.3 In criterion (d) replace “is inspired by the range of” with ‘inspiration taken from’.

As amended Policy NP 15 meets the Basic Conditions.

Table 8 and Policy NP 16 Design Principles for C3 Residential Development in Two Dales

Recommendation 27:

27.1 Remove “and Future Management” from the title of Table 8 and within the Table delete the column headed “Future Management”.

27.2 Within Policy NP 16:

27.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Two Dales where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

27.2.2 In criterion (a) replace “is inspired by the range of” with ‘inspiration taken from’.

27.2.3 Merge criterion (c) with criterion (b), removing the semi-colon after “plots”;
renumber subsequent criteria accordingly.

27.2.4 Within criterion (e) delete “has”.

27.2.5 Within criterion (f) amend “allows” to ‘allow’.

As amended Policy NP 16 meets the Basic Conditions.

Table 9 and Policy NP 17 Design Principles for C3 Residential Development in Lower Hackney

Recommendation 28:

28.1 Remove “and Future Management” from the title of Table 9 and within the Table delete the column headed “Future Management”.

28.2 Within Policy NP 17:

28.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Lower Hackney where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

28.2.2 In criterion (b) replace “is inspired by” with ‘inspiration taken from’.

28.2.3 Merge criterion (d) with criterion (c), removing the semi-colon after “distinctiveness”; renumber subsequent criteria accordingly.

As amended Policy NP 17 meets the Basic Conditions.

Table 10 and Policy NP 18 Design Principles for C3 Residential Development in Upper Hackney

Recommendation 29:

29.1 Remove “and Future Management” from the title of Table 10 and within the Table delete the column headed “Future Management”.

29.2 Within Policy NP 18:

29.2.1 Replace the opening sentence, including its number, with:

‘Planning permission will be supported for residential development in Upper Hackney where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’

29.2.2 In criterion (a) replace “is inspired by” with ‘inspiration taken from’.

29.2.3 In criterion (b) delete “includes”.

29.2.4 In criterion (c) delete “has”.

As amended Policy NP 18 meets the Basic Conditions.

Table 11 and Policy NP 19 Design Principles for C3 Residential Development in Farley

Recommendation 30:

30.1 Remove “and Future Management” from the title of Table 11 and within the Table delete the column headed “Future Management”.

30.2 Within Policy NP 19 replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Farley where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’.

As amended Policy NP 19 meets the Basic Conditions.

13 Enhancing the Provision of Community Facilities

Within the pre-amble to Policy NP 20 there are a few text corrections.

Recommendation 31:

Under the heading “Enhancing the Provision of Community Facilities”:

31.1 In paragraph 133 replace “Grade 11” with ‘Grade II’.

31.2 Within paragraphs 135 and 136 insert ‘Policy’ before ‘NP 20’.

Policy NP 20: Enhancing the Provision of Community Facilities

Within this Policy it is unclear whether “development” is intended to mean improvements only (as implied in paragraph 135 and the inclusion of element 2 of the Policy) or extend to new construction and improvements (to existing) community facilities. The Qualifying Body responded that: “The reference was left flexible – there will be significant population growth in Darley Dale and the NP group are aware that additional community facilities may be required. In the short-term improvements to the Whitworth (for example) are anticipated but the NP group were aware of the likely need for new provision (either as part of a refurbishment or new development) for young people as well, but no specific location had been identified.” Accordingly the wording needs to accommodate both new development and improvement to existing premises.

Recommendation 32:

Within the first paragraph of Policy NP 20 insert after “development of” and before “community” ‘new and improvement of existing’.

As amended Policy NP 20 meets the Basic Conditions.

14 Implementation

As the Neighbourhood Plan is on the verge of becoming part of the wider Development Plan some of the content and wording here are likely to give rise to confusion. In particular the inclusion of a “Pre-Application Community Engagement Form” exclusively for the use of the Town Council is an administrative rather than a land use matter. Further, it has potential to confuse with the Local Authority’s own pre-application expectations and the statutory planning application process. If the Town Council wish to include a pro-forma on their website then that provides clarity about the voluntary and limited purpose for its use. The earlier references to the “Key Principle” of community engagement are sufficient for the purposes of the Neighbourhood Plan.

Recommendation 33:

Under the heading “Implementation”:

33.1 In paragraph 137 replace “which is the key principle enshrined in this Plan” with ‘(see earlier Key Principle)’.

33.2 Delete paragraph 138 and the related Appendix D; renumber subsequent paragraphs accordingly.

33.3 In paragraph 139 delete “Whilst Derbyshire Dales District Council will be responsible for development management,” since this has already been stated.

33.4 In paragraph 142 delete the first sentence since its future tense will be inappropriate (and the plan hierarchy has already been stated).

15 Monitoring and Review

Clarity could be added to this section if paragraph 145 only dealt with review and paragraph 146 with amendment.

Recommendation 34:

Under the heading “Monitoring and Review” move the last sentence of paragraph 145 to the beginning of paragraph 146.

Appendices

Although for ease of use there should be footnote hyperlink references to the lengthy Place Analysis document wherever it is referenced within the text, it is also convenient (as the Qualifying Body wishes) for the hyperlink to appear as Appendix A, provided that the hyperlink is corrected to work. Appendix B will be retained. As noted earlier, Appendices C & D should be deleted.

Recommendation 35:

Ensure that the hyperlink in Appendix A is, and continues to be, operational; delete Appendices C & D.

Other matters raised in representations

Some representations have suggested additional content or sites that the Plan might include. However, given that the Neighbourhood Plan sits within the Development Plan documents as a whole, keeping content pertinent to Darley Dale identified priorities is entirely appropriate. As noted within the body of this Report it is a requirement that a Neighbourhood Plan addresses only the “development and use of land”. Even within this restriction there is no obligation on Neighbourhood Plans to be comprehensive in their coverage – unlike Local Plans - not least because proportionate supporting evidence is required.

Many representations indicate support for all or parts of the draft Plan and this helps in a small but valuable way to reassure that the extensive public consultation has been productive.

I have not mentioned every representation individually but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

European Union (EU) and European Convention on Human Rights (ECHR) Obligations

A further Basic Condition, which the Darley Dale Neighbourhood Plan must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

There is no legal requirement for a Neighbourhood Plan to have a sustainability appraisal. The Sustainability Appraisal and Strategic Environmental Assessment Screening Report carried out by Derbyshire Dales District Council for the Darley Dale Neighbourhood Plan (June 2018) considered whether or not the content of the Plan required a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plan and Programmes Regulations 2004. In accordance with Regulation 9 of the SEA Regulations 2004, Derbyshire Dales District Council determined: “it is considered unlikely that there will be considerable significant environmental effects arising from the Darley Dale Neighbourhood Plan, (as submitted and assessed as part of this screening exercise (DDNP March 2018), that have not been considered in the Sustainability Appraisal and Habitats Regulations Assessment of the Derbyshire Dales Local Plan, adopted in December 2017. The DDNP does not allocate any sites, or propose projects or development. Therefore sensitive natural or heritage sites cannot be affected by the proposals contained within the DDNP.... In conclusion it is considered that a strategic environmental assessment will not be required.” In making this determination, the District Council had regard to Schedule 1 of the Regulations and carried out consultation with the relevant public body who concurred with the screening opinion. Particularly in the absence of any adverse comments from the statutory body or the Local Planning Authority (either at the Screening or the Regulation 16 Consultation) I can confirm that the Screening undertaken was appropriate and proportionate, and that the Plan has sustainability at its heart.

The Basic Conditions Statement submitted alongside the Darley Dale Neighbourhood Plan confirms as regards the European Convention on Human Rights that “Whilst an Equality Impact Assessment Report has not been specifically prepared, great care has been taken throughout the preparation and drafting of this Plan to ensure that the views of the whole community were embraced to avoid any unintentional negative impacts on particular groups.”

I therefore confirm that the Darley Dale Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. No evidence has been put forward to demonstrate that this is not the case.

Taking all of the above into account, I am satisfied that the Darley Dale Neighbourhood Plan is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

Conclusions

This Independent Examiner's Report recommends a range of modifications to the Policies, as well as some of the supporting content, in the Plan. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body.

I therefore conclude that, subject to the modifications recommended, the Darley Dale Neighbourhood Plan:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the Plan for the area;
- is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

On that basis I *recommend* to the Derbyshire Dales District Council that, subject to the incorporation of modifications set out as recommendations in this report, it is appropriate for the Darley Dale Neighbourhood Plan to proceed to referendum.

Referendum Area

As noted earlier, part of my Examiner role is to consider whether the referendum area should be extended beyond the Plan area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case. I therefore ***recommend*** that the Plan should proceed to referendum based on the Neighbourhood Area as approved by the Derbyshire Dales District Council on 18th August 2014.

Recommendations: (this is a listing of the recommendations exactly as they are included in the Report)

Rec	Text	Reason				
1	Remove from the front cover wording relating to the submission status of the Plan and amend the Plan period (here and in all other Plan references) to 2019 - 2033.	For clarity				
2	Review the “Contents” pages once the text has been amended to accommodate the recommendations from this Report.	For clarity and accuracy				
3	Under the heading “What is the Darley Dale Neighbourhood Plan?” in the second sentence of paragraph 2 insert after “It covers” the following: ‘the Neighbourhood Area which is’; amend the title of Map 1 to ‘Area’ in place of “Plan area”.	For clarity and accuracy				
4	Retitle section 2 as: ‘Why is a Neighbourhood Plan needed?’.	For clarity				
5	<p>5.1 Repword paragraph 10 as: ‘The Neighbourhood Plan, when ‘made’, will form part of the development plan for Derbyshire Dales which will be applicable within the Neighbourhood Area, which also includes the Derbyshire Dales Local Plan 2013 – 2033, the Derbyshire Minerals Local Plan (November 2002) [reference needed] and the Derbyshire Waste Local Plan (March 2005) [reference needed].’</p> <p>5.2 In paragraph 13 in the first sentence add ‘dwellings’ after “5680” and the second sentence replace “three” with ‘four’; in the tabulation that immediately follows the paragraph add a fourth line:</p> <table border="1" data-bbox="280 1227 1200 1263"> <tr> <td data-bbox="280 1227 440 1263">HC2m</td> <td data-bbox="440 1227 820 1263">Land at Stancliffe Quarry</td> <td data-bbox="820 1227 1043 1263">10.16ha</td> <td data-bbox="1043 1227 1200 1263">100</td> </tr> </table> <p>5.3 Add to paragraph 14 the closing quotation mark at the end of the paragraph and text as follows: ‘Under Policy S3 of the Local Plan a Settlement Development Boundary for Darley Dale is defined as shown on Map 2.’</p> <p>5.4 Title and provide a source reference for the new Map 2 sourced from the District Council; alter the numbering of subsequent maps accordingly.</p> <p>5.5 Item (g) within paragraph 17 should be corrected to ‘Darley Dale’.</p> <p>5.6 Paragraph 18 should be made a footnote (correcting the paragraph reference) and replaced with: ‘Neighbourhood Plans are required to “have regard to national policies and advice contained in guidance issued by the Secretary of State”; national policies are primarily set down within the National Planning Policy Framework (NPPF) and guidance is set down in the Planning Practice Guidance (PPG) (both of these are updated from time to time). As the Neighbourhood Area is adjacent to, and in places contiguous with, the boundary of the Peak District National Park, the 1995 Environment Act places a duty on “relevant authorities” to have regard to the purposes of the National Park.’</p>	HC2m	Land at Stancliffe Quarry	10.16ha	100	For clarity and accuracy
HC2m	Land at Stancliffe Quarry	10.16ha	100			

6	<p>Under the heading “Darley Dale in context”:</p> <p>6.1 In paragraph 40 amend the bullet point “Rivers and streams” to ‘River Derwent and streams’.</p> <p>6.2 Correct a typographical error in paragraph 43 by replacing “opens” with open and add ‘Policy’ before “PD10”.</p> <p>6.3 Provide the sources for the data illustrated on Maps 3 & 4 and for Map 4 add ‘Local Plan’ before “Policy PD10” in the title.</p> <p>6.4 In paragraph 50 remove the inverted comma after “Parish”.</p>	For clarity and accuracy
7	<p>Under the heading “Community Objectives”:</p> <p>7.1 Within Community Objective 1(b) replace “Dales” with ‘Dale’.</p> <p>7.2 Delete footnote 23 and revise the wording of Community Objective 5 as: ‘Encouraging voluntary pre-application community engagement so that developers can identify and address community priorities for the particular location proposed.’</p>	For clarity and accuracy
8	<p>8.1 Review section 5 in the light of changes to the Policies as recommended in this Report.</p> <p>8.2 In the first sentence of paragraph 63 delete “how” between “that” and “development” and in the third line of paragraph 64 replace “being” with ‘bring’.</p>	For clarity and accuracy
9	<p>Within the section headed “9. Engagement with the Community: A Key Principle”:</p> <p>9.1 Add to paragraph 69: ‘All decisions on planning applications are undertaken by Derbyshire Dales District Council as the Local Planning Authority’.</p> <p>9.2 Correct the opening to Key Principle 1 as: ‘Applicants submitting a major development proposal or a proposal for’</p> <p>9.3 Replace the opening of Key Principle 2 with: ‘Applicants are encouraged to include within their application submission details of:.....’</p>	For clarity
10	<p>Under the heading ‘Protecting the Landscape Character of Darley Dale’:</p> <p>10.1 In the table within paragraph 78 in the first line of column two amend “A6/Derwent corridor” to ‘A6/River Derwent corridor’.</p> <p>10.2 Delete paragraph 81 and renumber subsequent paragraphs accordingly.</p>	For clarity and accuracy
11	<p>Within Policy NP 1: Protecting the Landscape Character of Darley Dale delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.</p>	For clarity and to meet Basic

		Condition 1
12	Within Policy NP 2: Protecting the Landscape Character of Darley Hillside delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1
13	Within Policy NP 3: Protecting the Landscape Character of Broadwalk delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1
14	Within Policy NP 4: Protecting the Landscape Character of Churchtown': 14.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence. 14.2 Amend criterion (a) to read: 'Plots that follow the linear development pattern with gaps sufficient to glimpse the wider valley from within the character area'.	For clarity and to meet Basic Condition 1
15	Within Policy NP 5 Protecting the Landscape Character of Parkway and Oker: 15.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence. 15.2 Within criterion (a) replace the phrase "that maintains the visual connections with the ridge lines so that the ridgelines are visible between buildings" with 'allows glimpsed views onto the backdrop of local hills avoiding building across the end of streets where this blocks off views to the wider countryside'. 15.3 Delete criterion (b).	For clarity and to meet Basic Condition 1
16	Within Policy NP 6 Protecting the Landscape Character of Two Dales: 16.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence. 16.2 Within criterion (b) add 'that' between "layout" and "follows".	For clarity and to meet Basic Condition 1
17	Within Policy NP 7 Protecting the Landscape Character of Lower Hackney: 17.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence. 17.2 Within criterion (b) delete the words "or the ridgeline". 17.3 At the end of criterion (c) add 'and'. 17.4 At the end of criterion (d) add a full stop.	For clarity and to meet Basic Condition 1
18	Within Policy NP 8 Protecting the Landscape Character of Upper Hackney delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1
19	Within Policy NP 9 Protecting the Landscape Character of Farley delete the paragraph number 1 and amend the semi-colon to a colon	For clarity and to meet

	at the end of the introductory sentence.	Basic Condition 1
20	<p>Under the heading “Protecting the Setting of the Peak District National Park”:</p> <p>20.1 In paragraph 106 insert the closing inverted comma at the end of the paragraph.</p> <p>20.2 In paragraph 109 replace “will not have a visual impact” with ‘will appropriately assess and address their impact’.</p> <p>20.3 In paragraph 110 replace “NP 9” with ‘Policy NP 10’.</p> <p>20.4 Reword Policy NP 10 as follows: ‘The impact on the Peak District National Park and its setting of major development proposals within the Neighbourhood Area should be assessed and addressed to ensure that their design, layout and boundary treatments are appropriate.’</p>	For clarity and accuracy and to meet Basic Condition 1
21	<p>Under the heading “The Importance of Good Design in Residential Development”:</p> <p>21.1 In paragraph 115 insert ‘Policies’ before “NP 12 – NP 19” and change the last word from “areas” to ‘area’.</p> <p>21.2 In paragraph 117 add ‘Policy’ before “PD1”.</p> <p>21.3 In Table 3 delete row/bullet point 3 and the related footnote 38; also in row 4 delete the duplicate ‘bullet’ symbol.</p> <p>21.4 At the end of paragraph 119 delete the last sentence (and delete Appendix C); it is sufficient to reference the Building for Life guidance, not least because the guidance may vary over the lifetime of the Plan.</p> <p>21.5 Delete the incorrect paragraph 123 and replace this with the wording of footnote 42 on page 41; renumber subsequent footnotes accordingly.</p> <p>21.6 Insert ‘Policy’ before all the Policy numbers in paragraphs 125 and 127.</p> <p>21.7 In paragraph 128 insert ‘and’ between “character” and “what”; replace “at NP” with ‘in Policies NP’.</p>	For clarity and accuracy
22	<p>Within Policy NP 11 Design Principles for C3 Residential Development:</p> <p>22.1 Replace the semi-colon at the end of the introductory sentence with a colon.</p> <p>22.2 Within criterion (b) add ‘, particularly’ between “ages” and “to access”.</p> <p>22.3 Reword criterion (d) as: ‘regard for the content of the Darley Dale Place Analysis [footnote reference] (which is briefly summarised in Table 3)’; add a footnote reference to the Place Analysis.</p>	For clarity and accuracy and to meet Basic Conditions 1 & 3

	22.4 Merge criteria 3 and 4 as: 'For major developments 41, the use of national design guidance (BfL12 or equivalent) in developing design concepts, testing the final designs for quality and demonstrating how local distinctiveness has been reinforced.'	
23	23.1 Remove "and Future Management" from the title of Table 4 and within the Table delete the column headed "Future Management" and in the 4th row (about "Plots") amend "places" to 'placed'. 23.2 Within Policy NP 12: 23.2.1 Replace the opening sentence, including its number, with: 'Planning permission will be supported for residential development in Darley Hillside where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:'. 23.2.2 In criterion (a) replace "is inspired by the use of a" with 'inspiration taken from'.	For clarity and to meet Basic Condition 1
24	24.1 Remove "and Future Management" from the title of Table 5 and within the Table delete the column headed "Future Management". 24.2 Within Policy NP 13: 24.2.1 Replace the opening sentence, including its number, with: 'Planning permission will be supported for residential development in Broadwalk where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:'. 24.2.2 In criterion (c) replace "is inspired by the use of" with 'inspiration taken from'.	For clarity and to meet Basic Condition 1
25	25.1 Remove "and Future Management" from the title of Table 6 and within the Table delete the column headed "Future Management". 25.2 Within Policy NP 14: 25.2.1 Replace the opening sentence, including its number, with: 'Planning permission will be supported for residential development in Darley Hillside where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:'. 25.2.2 In criterion (a) replace "is inspired by the range of" with 'inspiration taken from'.	For clarity and to meet Basic Condition 1
26	26.1 Remove "and Future Management" from the title of Table 7 and within the Table delete the column headed "Future Management". 26.2 Within Policy NP 15: 26.2.1 Replace the opening sentence, including its number, with: 'Planning permission will be supported for residential development in Parkway and Oker where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:'. 26.2.2 Replace criterion (b) with 'a development that is well connected and provides appropriate linkages to improve	For clarity and to meet Basic Conditions 1 & 3

	<p>connectivity across the wider neighbourhood; and’.</p> <p>26.2.3 In criterion (d) replace “is inspired by the range of” with ‘inspiration taken from’.</p>	
27	<p>27.1 Remove “and Future Management” from the title of Table 8 and within the Table delete the column headed “Future Management”.</p> <p>27.2 Within Policy NP 16:</p> <p>27.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Two Dales where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’.</p> <p>27.2.2 In criterion (a) replace “is inspired by the range of” with ‘inspiration taken from’.</p> <p>27.2.3 Merge criterion (c) with criterion (b), removing the semi-colon after “plots”); renumber subsequent criteria accordingly.</p> <p>27.2.4 Within criterion (e) delete “has”.</p> <p>27.2.5 Within criterion (f) amend “allows” to ‘allow’.</p>	For clarity and to meet Basic Condition 1
28	<p>28.1 Remove “and Future Management” from the title of Table 9 and within the Table delete the column headed “Future Management”.</p> <p>28.2 Within Policy NP 17:</p> <p>28.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Lower Hackney where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’.</p> <p>28.2.2 In criterion (b) replace “is inspired by” with ‘inspiration taken from’.</p> <p>28.2.3 Merge criterion (d) with criterion (c), removing the semi-colon after “distinctiveness”; renumber subsequent criteria accordingly.</p>	For clarity and to meet Basic Condition 1
29	<p>29.1 Remove “and Future Management” from the title of Table 10 and within the Table delete the column headed “Future Management”.</p> <p>29.2 Within Policy NP 18:</p> <p>29.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Upper Hackney where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’.</p> <p>29.2.2 In criterion (a) replace “is inspired by” with ‘inspiration taken from’.</p> <p>29.2.3 In criterion (b) delete “includes”.</p> <p>29.2.4 In criterion (c) delete “has”.</p>	For clarity and to meet Basic Condition 1
30	<p>30.1 Remove “and Future Management” from the title of Table 11 and within the Table delete the column headed “Future Management”.</p> <p>30.2 Within Policy NP 19 replace the opening sentence, including its number, with:</p>	For clarity and to meet Basic Condition 1

	'Planning permission will be supported for residential development in Farley where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.'	
31	Under the heading "Enhancing the Provision of Community Facilities": 31.1 In paragraph 133 replace "Grade 11" with 'Grade II'. 31.2 Within paragraphs 135 and 136 insert 'Policy' before 'NP 20'.	For clarity and accuracy
32	Within the first paragraph of Policy NP 20 insert after "development of" and before "community" 'new and improvement of existing'.	For clarity and to meet Basic Condition 1
33	Under the heading "Implementation": 33.1 In paragraph 137 replace "which is the key principle enshrined in this Plan" with '(see earlier Key Principle)'. 33.2 Delete paragraph 138 and the related Appendix D; renumber subsequent paragraphs accordingly. 33.3 In paragraph 139 delete "Whilst Derbyshire Dales District Council will be responsible for development management," since this has already been stated. 33.4 In paragraph 142 delete the first sentence since its future tense will be inappropriate (and the plan hierarchy has already been stated).	For clarity
34	Under the heading "Monitoring and Review" move the last sentence of paragraph 145 to the beginning of paragraph 146.	For clarity
35	Ensure that the hyperlink in Appendix A is, and continues to be, operational; delete Appendices C & D.	For clarity

Appendix Two: Examiner’s Recommendation and Derbyshire Dales District Council response.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
1	Remove from the front cover wording relating to the submission status of the Plan and amend the Plan period (here and in all other Plan references) to 2019 - 2033.	For clarity	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
2	Review the “Contents” pages once the text has been amended to accommodate the recommendations from this Report.	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
3	Under the heading “What is the Darley Dale Neighbourhood Plan?” in the second sentence of paragraph 2 insert after “It covers” the following: ‘the Neighbourhood Area which is’; amend the title of Map 1 to ‘Area’ in place of “Plan area”.	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
4	Retitle section 2 as: ‘Why is a Neighbourhood Plan needed?’	For clarity	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
5	5.1 Reword paragraph 10 as: ‘The Neighbourhood Plan, when ‘made’, will form part of the development plan for Derbyshire Dales which will be applicable within the Neighbourhood Area, which also includes the Derbyshire Dales Local Plan 2013 – 2033 and the Derbyshire County Council Minerals Local Plan (November 2002) [reference	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	needed] and the Derbyshire Waste Local Plan (March 2005) [reference needed].’		
	5.2 In paragraph 13 in the first sentence add ‘dwellings’ after “5680” and the second sentence replace “three” with ‘four’; in the tabulation that immediately follows the paragraph add a fourth line: HC2m Land at Stancliffe Quarry 10.16ha 100		The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
	5.3 Add to paragraph 14 the closing quotation mark at the end of the paragraph and text as follows: ‘Under Policy S3 of the Local Plan a Settlement Development Boundary for Darley Dale is defined as shown on Map 2.’		The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
	5.4 Title and provide a source reference for the new Map 2 relocated from within Appendix D; alter the numbering of subsequent maps accordingly.		The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
	5.5 Item (g) within paragraph 17 should be corrected to ‘Darley Dale’.		The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
	5.6 Paragraph 18 should be made a footnote (correcting the paragraph reference) and replaced with: ‘Neighbourhood Plans are required to “have regard to national policies and advice contained in guidance issued by the Secretary of State”; national policies are primarily set down within the National Planning Policy Framework (NPPF) and guidance is set down in the Planning Practice Guidance (PPG) (both of these are		The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	updated from time to time). As the Neighbourhood Area is adjacent to, and in places contiguous with, the boundary of the Peak District National Park, the 1995 Environment Act places a duty on “relevant authorities” to have regard to the purposes of the National Park.’		
6	<p>Under the heading “Darley Dale in context”:</p> <p>6.1 In paragraph 40 amend the bullet point “Rivers and streams” to ‘River Derwent and streams’.</p> <p>6.2 Correct a typographical error in paragraph 43 by replacing “opens” with open and add ‘Policy’ before “PD10”.</p> <p>6.3 Provide the sources for the data illustrated on Maps 3 & 4 and for Map 4 add ‘Local Plan’ before “Policy PD10” in the title.</p> <p>6.4 In paragraph 50 remove the inverted comma after “Parish”.</p>	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
7	<p>Under the heading “Community Objectives”:</p> <p>7.1 Within Community Objective 1(b) replace “Dales” with ‘Dale’.</p> <p>7.2 Delete footnote 23 and revise the wording of Community Objective 5 as: ‘Encouraging voluntary pre-application community engagement so that developers can identify and address community priorities for the particular location proposed.’</p>	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
8	<p>8.1 Review section 5 in the light of changes to the Policies as recommended in this Report.</p> <p>8.2 In the first sentence of paragraph 63 delete “how” between “that” and “development” and in the third line of paragraph 64 replace “being” with ‘bring’.</p>	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
9	<p>Within the section headed “9. Engagement with the Community: A Key Principle”:</p> <p>9.1 Add to paragraph 69: ‘All decisions on planning applications are undertaken by Derbyshire Dales District Council as the Local Planning Authority’.</p> <p>9.2 Correct the opening to Key Principle 1 as: ‘Applicants submitting a major development proposal or a proposal for’</p> <p>9.3 Replace the opening of Key Principle 2 with: ‘Applicants are encouraged to include within their application submission details of:.....’</p>	For clarity	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
10	<p>Under the heading ‘Protecting the Landscape Character of Darley Dale’:</p> <p>10.1 In the table within paragraph 78 in the first line of column two amend “A6/Derwent corridor” to ‘A6/River Derwent corridor’.</p>	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	10.2 Delete paragraph 81 and renumber subsequent paragraphs accordingly.		
11	Within Policy NP 1: Protecting the Landscape Character of Darley Dale delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
12	Within Policy NP 2: Protecting the Landscape Character of Darley Hillside delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
13	Within Policy NP 3: Protecting the Landscape Character of Broadwalk delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
14	<p>Within Policy NP 4: Protecting the Landscape Character of Churchtown':</p> <p>14.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.</p> <p>14.2 Amend criterion (a) to read: 'Plots that follow the linear development pattern with gaps sufficient to glimpse the wider valley from within the character area'.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
15	<p>Within Policy NP 5 Protecting the Landscape Character of Parkway and Oker:</p> <p>15.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.</p> <p>15.2 Within criterion (a) replace the phrase “that maintains the visual connections with the ridge lines so that the ridgelines are visible between buildings” with ‘allows glimpsed views onto the backdrop of local hills avoiding building across the end of streets where this blocks off views to the wider countryside’.</p> <p>15.3 Delete criterion (b).</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
16	<p>Within Policy NP 6 Protecting the Landscape Character of Two Dales: 16.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.</p> <p>16.2 Within criterion (b) add ‘that’ between “layout” and “follows”.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
17	<p>Within Policy NP 7 Protecting the Landscape Character of Lower Hackney:</p> <p>17.1 Delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.</p> <p>17.2 Within criterion (b) delete the words “or the ridgeline”.</p> <p>17.3 At the end of criterion (c) add ‘and’.</p> <p>17.4 At the end of criterion (d) add a full stop.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
18	Within Policy NP 8 Protecting the Landscape Character of Upper Hackney delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
19	Within Policy NP 9 Protecting the Landscape Character of Farley delete the paragraph number 1 and amend the semi-colon to a colon at the end of the introductory sentence.	For clarity and to meet Basic	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
20	<p>Under the heading "Protecting the Setting of the Peak District National Park":</p> <p>20.1 In paragraph 106 insert the closing inverted comma at the end of the paragraph.</p> <p>20.2 In paragraph 109 replace "will not have a visual impact" with 'will appropriately assess and address their impact'.</p> <p>20.3 In paragraph 110 replace "NP 9" with 'Policy NP 10'.</p> <p>20.4 Reword Policy NP 10 as follows: 'The impact on the Peak District National Park and its setting of major development proposals within the Neighbourhood Area should be assessed and addressed to ensure that their design, layout and boundary treatments are appropriate.'</p>	For clarity and accuracy and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
21	<p>Under the heading “The Importance of Good Design in Residential Development”:</p> <p>21.1 In paragraph 115 insert ‘Policies’ before “NP 12 – NP 19” and change the last word from “areas” to ‘area’.</p> <p>21.2 In paragraph 117 add ‘Policy’ before “PD1”.</p> <p>21.3 In Table 3 delete row/bullet point 3 and the related footnote 38; also in row 4 delete the duplicate ‘bullet’ symbol.</p> <p>21.4 At the end of paragraph 119 delete the last sentence (and delete Appendix C); it is sufficient to reference the Building for Life guidance, not least because the guidance may vary over the lifetime of the Plan.</p> <p>21.5 Delete the incorrect paragraph 123 and replace this with the wording of footnote 42 on page 41; renumber subsequent footnotes accordingly.</p> <p>21.6 Insert ‘Policy’ before all the Policy numbers in paragraphs 125 and 127.</p> <p>21.7 In paragraph 128 insert ‘and’ between “character” and “what”; replace “at NP” with ‘in Policies NP’.</p>	For clarity and accuracy	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
22	Within Policy NP 11 Design Principles for C3 Residential Development:	For clarity and accuracy and to meet Basic	The Derbyshire Dales District Council accepts the Examiner’s

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	<p>22.1 Replace the semi-colon at the end of the introductory sentence with a colon.</p> <p>22.2 Within criterion (b) add ‘, particularly’ between “ages” and “to access”.</p> <p>22.3 Reword criterion (d) as: ‘regard for the content of the Darley Dale Place Analysis [footnote reference] (which is briefly summarised in Table 3)’; add a footnote reference to the Place Analysis.</p> <p>22.4 Merge criteria 3 and 4 as: ‘For major developments 41, the use of national design guidance (BfL12 or equivalent) in developing design concepts, testing the final designs for quality and demonstrating how local distinctiveness has been reinforced.</p>	Conditions 1 & 3	recommendation. No action required.
23	<p>23.1 Remove “and Future Management” from the title of Table 4 and within the Table delete the column headed “Future Management” and in the 4th row (about “Plots”) amend “places” to ‘placed’.</p> <p>23.2 Within Policy NP 12: 23.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Darley Hillside where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	23.2.2 In criterion (a) replace “is inspired by the use of a” with ‘inspiration taken from’.		
24	<p>24.1 Remove “and Future Management” from the title of Table 5 and within the Table delete the column headed “Future Management”.</p> <p>24.2 Within Policy NP 13:</p> <p>24.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Broadwalk where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’</p> <p>24.2.2 In criterion (c) replace “is inspired by the use of” with ‘inspiration taken from’.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
25	<p>25.1 Remove “and Future Management” from the title of Table 6 and within the Table delete the column headed “Future Management”.</p> <p>25.2 Within Policy NP 14:</p> <p>25.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Darley Hillside where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	25.2.2 In criterion (a) replace “is inspired by the range of” with ‘inspiration taken from’.		
26	<p>26.1 Remove “and Future Management” from the title of Table 7 and within the Table delete the column headed “Future Management”.</p> <p>26.2 Within Policy NP 15:</p> <p>26.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Parkway and Oker where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’</p> <p>26.2.2 Replace criterion (b) with ‘a development that is well connected and provides appropriate linkages to improve connectivity across the wider neighbourhood; and’.</p> <p>26.2.3 In criterion (d) replace “is inspired by the range of” with ‘inspiration taken from’.</p>	For clarity and to meet Basic Conditions 1 & 3	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
27	<p>27.1 Remove “and Future Management” from the title of Table 8 and within the Table delete the column headed “Future Management”.</p> <p>27.2 Within Policy NP 16:</p> <p>27.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Two Dales where the proposal is of high</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	<p>design quality that will positively contribute to the character of its setting and may demonstrate:’.</p> <p>27.2.2 In criterion (a) replace “is inspired by the range of” with ‘inspiration taken from’.</p> <p>27.2.3 Merge criterion (c) with criterion (b), removing the semicolon after “plots”); renumber subsequent criteria accordingly.</p> <p>27.2.4 Within criterion (e) delete “has”.</p> <p>27.2.5 Within criterion (f) amend “allows” to ‘allow’.</p>		
28	<p>28.1 Remove “and Future Management” from the title of Table 9 and within the Table delete the column headed “Future Management”.</p> <p>28.2 Within Policy NP 17:</p> <p>28.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Lower Hackney where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate:’.</p> <p>28.2.2 In criterion (b) replace “is inspired by” with ‘inspiration taken from’.</p> <p>28.2.3 Merge criterion (d) with criterion (c), removing the semicolon after “distinctiveness”; renumber subsequent criteria accordingly.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
29	<p>29.1 Remove “and Future Management” from the title of Table 10 and within the Table delete the column headed “Future Management”.</p> <p>29.2 Within Policy NP 18: 29.2.1 Replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Upper Hackney where the proposal is of high design quality that will positively contribute to the character of its setting and may demonstrate.’. 29.2.2 In criterion (a) replace “is inspired by” with ‘inspiration taken from’. 29.2.3 In criterion (b) delete “includes”. 29.2.4 In criterion (c) delete “has”.</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.
30	<p>30.1 Remove “and Future Management” from the title of Table 11 and within the Table delete the column headed “Future Management”.</p> <p>30.2 Within Policy NP 19 replace the opening sentence, including its number, with: ‘Planning permission will be supported for residential development in Farley where the proposal is of high design quality that will</p>	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner’s recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
	positively contribute to the character of its setting and may demonstrate.'		
31	<p>Under the heading "Enhancing the Provision of Community Facilities": 31.1 In paragraph 133 replace "Grade 11" with 'Grade II'.</p> <p>31.2 Within paragraphs 135 and 136 insert 'Policy' before 'NP 20'.</p>	For clarity and accuracy	
32	Within the first paragraph of Policy NP 20 insert after "development of" and before "community" 'new and improvement of existing'.	For clarity and to meet Basic Condition 1	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
33	<p>Under the heading "Implementation":</p> <p>33.1 In paragraph 137 replace "which is the key principle enshrined in this Plan" with '(see earlier Key Principle)'.</p> <p>33.2 Delete paragraph 138 and the related Appendix D; renumber subsequent paragraphs accordingly.</p> <p>33.3 In paragraph 139 delete "Whilst Derbyshire Dales District Council will be responsible for development management," since this has already been stated.</p> <p>33.4 In paragraph 142 delete the first sentence since its future tense will be inappropriate (and the plan hierarchy has already been stated).</p>	For clarity	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.

Recommendation	Text	Reason	Derbyshire Dales consideration of recommendation and action proposed.
34	Under the heading "Monitoring and Review" move the last sentence of paragraph 145 to the beginning of paragraph 146.	For clarity	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.
35	Ensure that the hyperlink in Appendix A is, and continues to be, operational; delete Appendices C & D.	For clarity	The Derbyshire Dales District Council accepts the Examiner's recommendation. No action required.

COMMUNITY AND ENVIRONMENT COMMITTEE

30TH OCTOBER 2019

Report of the Head of Housing

THE HOMELESSNESS REDUCTION ACT ONE YEAR ON

PURPOSE OF REPORT

This report sets out the progress in working with the changes to the homelessness legislation one year on. In addition, following new government guidance, some technical changes have been required to the Homelessness Prevention Strategy.

RECOMMENDATIONS

1. The Committee adopts the revised Homelessness & Rough Sleeper Strategy.
2. The Committee notes the progress one year on from the introduction of the Homelessness Reduction Act.

WARDS AFFECTED

All wards

STRATEGIC LINK

Implementation of the Homelessness Strategy 2017/2021 will help deliver the Council's objective to provide affordable decent homes for local people.

1 SUMMARY

- 1.1 The Homelessness Reduction Act 2017 (HRA) was the biggest change to the rights of homeless people in England for 15 years when it was introduced on the 3rd April 2018. It effectively added two new duties to the original statutory rehousing duty:
 - Duty to prevent homelessness
 - Duty to relieve homelessness
- 1.2 The introduction of the HRA extends entitlements to help, places a renewed focus on the prevention of homelessness and local joint working, and has the potential to provide more client-focused, personalised statutory homelessness services.
- 1.3 Appendix 1 shows the homelessness process prior to the HRA and Appendix 2 shows the process LA's have to follow under the new legislation.
- 1.4 The HRA places new legal duties on local housing authorities and amends the existing homelessness legislation in the Housing Act 1996. These new duties apply

to all eligible applicants (i.e. on the basis of immigration status) and are blind to intentionality and priority need. The prevention duty is also blind to local connection.

- 1.5 The HRA requires thorough assessment and a personalised response placing new duties on local authorities to properly assess the cause of homelessness, circumstances and needs of all household members, including children. It also places new duties on local authorities to develop and agree with applicants a personalised plan of the steps that will be taken to prevent or relieve homelessness.
- 1.6 This report sets out the changes the HRA introduced, the funding the Council received to implement the HRA and the impact one year into the new legislation

2 REPORT

- 2.1. The HRA places renewed emphasis on prevention of homelessness:
 - Extending from 28 to 56 days the period in which a household is defined as 'threatened with homelessness'.
 - Placing a new 'prevention' duty on local authorities to 'take reasonable steps' to prevent the threatened homelessness of anyone who is eligible.
 - This does not mean the applicant has to be helped to prevent the loss of their current home – they can be helped to find a suitable alternative.
 - The duty can be ended if the applicant has a reasonable prospect of having suitable accommodation for at least six months (e.g. six month private tenancy).
- 2.2 The HRA aims to help to all those who are homeless and eligible placing a new 'relief' duty to 'take reasonable steps' to help homeless applicants to secure suitable accommodation, which again applies to anyone who is eligible. The accommodation the applicant must be helped to secure must be available for at least six months.
- 2.3 The HRA continues to require authorities to provide temporary accommodation for some applicants where the authority has reason to believe that an applicant may be homeless, eligible for assistance and have a priority need. This could be in self-contained accommodation or bed and breakfast.
- 2.4 If the Housing Team are unable to resolve the homelessness (relief) after 56 days and the household is unintentionally homelessness and in priority need, then the existing main rehousing duty applies and they must be offered suitable settled accommodation (or temporary accommodation until a suitable offer of settled accommodation has been made). Accommodation which housing authorities help people to keep or find under their new duties, must be suitable in every legal sense (e.g. affordability, location) or the applicant can challenge.
- 2.5 The HRA aims to encourage joint working to tackle homelessness by placing a new duty on public authorities, such as hospitals and prisons, requiring them to make a referral, with the individual's consent, to the local housing authority if someone they're working with appears to be homeless or threatened with homelessness.
- 2.6 **Changes made to the team structure** – The structure and job roles within the Housing Team were reviewed following the award of new burdens funding to deliver the HRA, provision of the new code of guidance and IT reporting requirements. Given the new requirements of the HRA, there was a need to adjust

the structure, roles and responsibilities and to provide some resilience within a small team. The Home-Options Team now consists of a Housing Strategy Officer (Homelessness & Inclusion) and 2.67 Home-Options Officers covering the homelessness and housing advice functions.

2.7 **Funding for tackling homelessness for Derbyshire Dales** There are a number of funding sources the government gives to local authorities to either fully or partly assist in delivering homelessness and homelessness prevention services.

1. **The Homeless Prevention Grant** amounts to £136,000 for 2019/20. This money funds external services that compliments the work of the Housing Team including;
 - Adullam HA – floating support to vulnerable tenants
 - Nottingham Community HA – supporting tenants in temporary accommodation
 - Nottingham Community HA /Adullam HA – supporting our young person's project
 - CAB – debt and money advice services
 - Prevention fund – rent in advance, arrears payments, Discretionary Housing Payments top-up

2. Flexible Homelessness Support Grant (FHSG), a new annual Government grant allocated from April 2017 ring fenced to assist Local Authorities to prevent homelessness. This was: £40,000 for 2017/18 and £62,358 in 2018/19.

3. 'New Burdens Funding' to recognise the new burden the HRA places on local authorities. This was estimated to be in the region of £50,000 to £70,000 a year over 2 years. The allocation for Derbyshire Dales was confirmed in October 2017 with the first payment paid December 2017. At regional level the funding was split by deprivation indices and population. Leaving the Derbyshire Dales with the lowest funding in Derbyshire.

Table 1: New Burdens Funding comparison across Derbyshire

	2017/18	2018/19	2019/20	Total
Amber Valley	£26,396	£24,178	£31,179	£81,753
Bolsover	£22,616	£20,716	£26,714	£70,046
Chesterfield	£30,912	£28,315	£36,514	£95,740
Derby	£83,237	£76,245	£98,321	£257,803
Derbyshire Dales	£10,217	£9,359	£12,069	£31,645
Erewash	£26,742	£24,496	£31,588	£82,826
High Peak	£17,241	£15,793	£20,366	£53,399
NEDDC	£19,772	£18,111	£23,355	£61,237
South Derbyshire	£16,040	£14,692	£18,947	£49,679

4. Discretionary Housing Payment grant, commonly known as DHP. The Council's allocation for 2017/18 was £81,000, 2018/19 £71,894. This is an increase in funding compared to the DHP allocation in 2016/17 of £64,000. 100% of DHP is spent each year with additional monies provided from the Homelessness Grant.
5. New Burdens Funding – IT. £3m to support local authorities in upgrading data systems to take into account the new requirements. This equates to £9,200 per LA as a one off payment.
6. Government Grants. Central Government offer LA's the opportunity to bid for money for specific projects. As an active member of the Derbyshire Homelessness Officers Group the Housing Team has been successful in obtaining grants on two new projects:
 - i. Rough Sleepers – Coordinators and Navigators will be appointed across Derbyshire to understand the extent of rough sleeping, its causes locally and to assist people into services to reduce or prevent rough sleeping. Grant awarded = £250,000 for 2018/19.
 - ii. Private Landlord Support – Call B4 You Serve is a service open to landlords to reduce the number of tenants losing accommodation in the private rented sector. Grant awarded = £43265 in 2018-19 and £183402 in 2019-20.

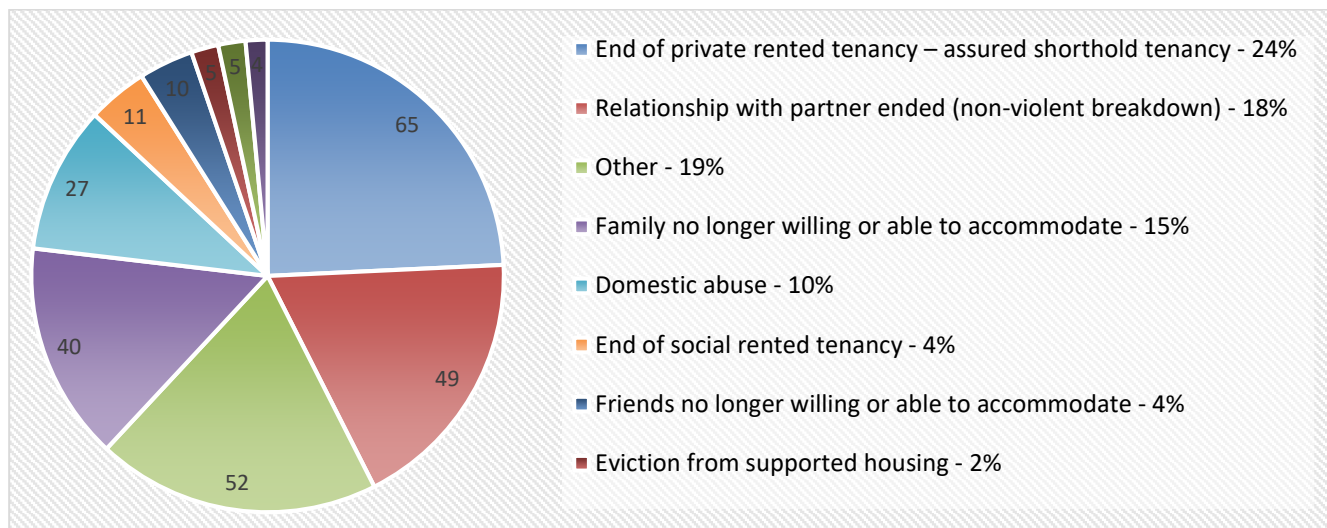
3 THE IMPACT OF THE HRA ON THE HOUSING SERVICE.

- 3.1 To compare the first full year under the new homelessness legislation we can compare those approaching as homeless in the first full year if the HRA (2018/19) against the numbers that approached in the last full year under the old legislation. This demonstrated a 213% increase in homeless approaches to Derbyshire Dales District Council.

2017/18 = 123 (Housing Act 1996)
2018/19 = 385 (Homelessness Reduction Act 2017)

- 3.2 The chart below demonstrates the main reasons people approach the Council as homeless or threatened with homelessness. Those facing issues with private landlords is the number one reason people approach for help seeing an 800% increase in approaches within the new legislation.

Table 2: Reason for loss of last settled address (change font size)



3.3 Councils have been requested by the Ministry of Housing, Communities and Local Government (MHCLG) to review their Homelessness Strategies in line with the changes to the legislation. Derbyshire Dales District Council received a visit from a Homelessness Adviser for MHCLG on the 6th September 2019 where it was observed that Derbyshire Dales DC has a current strategy in place which should be renamed “Homelessness and Rough Sleeper Strategy”.

3.4 The changes to the homelessness legislation require some technical changes. The National Rough Sleeper Strategy, published in October 2017, requires that every housing authority re-badges their existing Homelessness Strategy to become a ‘Homelessness and Rough Sleeper Strategy’ by no later than 31 December 2019. The current Derbyshire Dales Homelessness Strategy covers 2017-2022. Some of the data used in the strategy requires updating as well as some minor amendments to the action plan. The revised strategy is available on the Members Portal .

3.4.1 During the site visit by the DCLG representative, it was also reported that the Council’s outturn data benchmarked very well against national statistics. The District Council’s Housing Team was performing in the top quartile in all major areas. In addition, of the 30 authorities visited, Derbyshire Dales was in the top 2 performing authorities. Further benchmarking information is set out below;

- **Initial Applications** – In Q2 2019/20, 85% (44 out of 52) of homelessness applications were at the prevention duty stage. The national average was 58%. The % of initial applications opened at the prevention stage is not an absolute measure of service effectiveness; nevertheless it is definitely the case that the earlier a person approaches, in respect of their homelessness issue for assistance, the more likely it is that a solution to their housing difficulty can be secured – whether that be to preserve existing accommodation or to secure alternative housing. 85% suggests an excellent service platform that is rooted in a homeless prevention culture
- **Prevention Duty Discharges Settled Accommodation Outcomes** – in Q2 42 out of a total of 55 prevention duty discharges resulted in a settled accommodation outcome. This equates to 77%. The national average was 58%. 13 households were assisted to maintain their existing homes and 29 to secure alternative accommodation. The major prevention options were private

rented (7) and social housing (22) which was broken down into 20 housing association and 3 supported housing lets.

- **Relief Duty Discharges Settled Accommodation Outcomes** – in Q2 12 out of a total of 19 relief duty discharges resulted in a settled accommodation outcome. This equates to 63%. The national average was 40%. The major option for securing a settled accommodation was a housing association tenancy with 8 applicants being assisted with this option.

4 RISK ASSESSMENT

4.1. Legal

The Homelessness Reduction Act 2017 has placed an obligation for the Council to actively seek to reduce homelessness and the treat of families becoming homeless. The review of performance and updating of the policy demonstrates that the Council is meeting its statutory obligations. Failure to keep the policy up to date puts the Council at risk of non-compliance which could result in legal challenge.

4.2. Financial

Details of funding received are set out in the report. The financial risks associated with this report have been assessed as low.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6 CONTACT INFORMATION

Simon Beynon, Housing Strategy Officer (Homelessness & Inclusion)
Telephone: 01629 761306, email: simon.beynon@derbyshiredales.gov.uk

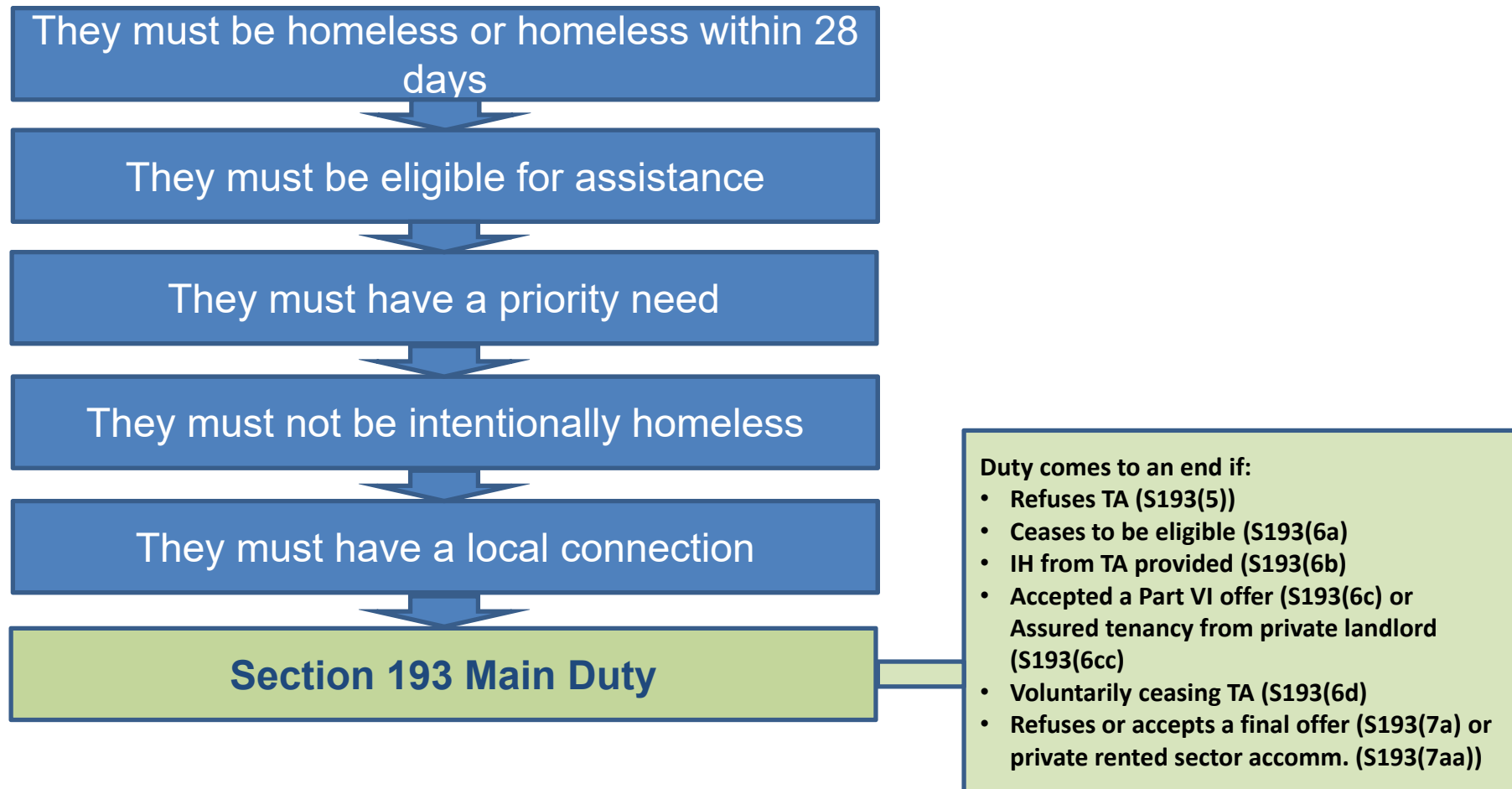
7 BACKGROUND PAPERS

Date	Description	Location
June 2017	Homelessness Strategy 2016/21	Housing Strategy Officer

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Old Legislation

In order for a person to be owed a duty under S193 Housing Act 1996 they must pass 5 criteria:



Housing Act 1996 as amended

PSED & S11 Children Act 2004 will apply to all duties

Applicant
(Reason to believe that they may be homeless or threatened with homelessness (within 56 days or have a valid S21 notice))

S188 accommodation for those where there is a reason to believe that that they may be homeless, eligible and priority need

Appendix 2

Is applicant eligible for assistance? **NO** → S184 Not Eligible Letter (R)

Is applicant homeless or threatened with homelessness (within 56 days or have a valid S21 notice)? **NO** → S184 Not Homeless Letter (R)

Threatened with homelessness
(within 56 days or has a valid S21 notice)
(S195(2) Prevention Duty)

Duty to complete Assessment & Personalised Plan (189A) (R)

Duty to help that suitable accommodation does not cease to be available (S195(2))

S195(2) Duty can come to an end (R)

- Has accom. for at least 6 months S195(8a)
- 56 Days End S195(8b)
- Became Homeless S195(8c)
- Refused 6 months' accom. S195(8d)
- IH from accom. made available S195(8e)
- Cease to eligible S195(8f)
- Withdrawn S195(8g)
- Refusal to cooperate S193B despite a warning letter

Go to Relief Duty

Homeless
(S189B(2) Relief Duty)

Can you refer them under local connection rules? **YES** → S198(1A) No Local Connection Letter (R)

Duty to complete Assessment & Personalised Plan (189A) (R)

Duty to help to secure suitable accommodation becomes available (S189B(2))

No Further Duty

Refusal of Final Accom. Offer or Part VI (S193A) (R)

S189B(2) Duty can come to an end (R)

- Has accom. for at least 6 months S189B(7a)
- 56 Days End S189B(7b)
- Refused 6 months' accom. S189B(7c)
- IH from accom. made available S189B(7d)
- Cease to eligible S189B(7e)
- Withdrawn S189B(7f)
- Refusal to cooperate S193B despite a warning letter

S193(2) Main Duty if Homeless, Eligible, Priority Need, Not IH & has local connection (R)

IH S184 (R)

Not Eligible S184 (R)

S193C(4) Duty to offer final accom offer or final Part VI but only if PN and not IH (R)

- Duty comes to an end if (R):
- Refuses TA (S193(5))
 - Ceases to be eligible (S193(6a))
 - IH from TA provided (S193(6b))
 - Accepts a Part VI offer (S193(6c)) or Assured tenancy from private landlord (S193(6cc))
 - Voluntarily ceasing TA (S193(6d))
 - Refuses or accepts a final offer (S193(7a)) or private rented sector accomm. (S193(7aa))

- Duty comes to an end if (S193C(5)) (R):
- Ceases to be eligible
 - IH from accom. provided
 - Accepted Assured tenancy from private landlord
 - Voluntarily ceasing TA
 - Accepts or refuses final accom. offer S193C(6a)
 - Accepts or refuses final Part VI. offer S193C(6b)

COMMUNITY AND ENVIRONMENT COMMITTEE
30 October 2019

Report of the Head of Regulatory Services

FOOD LAW ENFORCEMENT SERVICE BUSINESS PLAN 2019/20

PURPOSE OF THE REPORT

This report introduces the District Council's business plan for food law enforcement activities for 2019/20 for formal approval and adoption.

RECOMMENDATION

That the Food Law Enforcement Service Business Plan 2019/20 attached as Appendix 1 to this report is approved.

WARDS AFFECTED

All

STRATEGIC LINK

The provision of an effective food law enforcement service can aid business growth and job creation and contributes towards a distinctive, high quality rural environment where people of all ages are healthy and safe.

REPORT

- 1.1.** Derbyshire Dales District Council's Environmental Health team is responsible for ensuring the safety of food in approximately 1400 food premises. Along with all other food safety authorities the District Council is required to produce an annual business plan that sets out how it will provide its food safety enforcement service. This Plan must conform to guidance issued by the Food Standards Authority.
- 1.2.** An audit of the District Council's food safety arrangements undertaken towards the end of 2015 highlighted the need to update the business plan on an annual basis and to ensure that elected Members had the opportunity to scrutinise and question the plan.
- 1.3.** The enforcement of food safety law is aimed at protecting public health by improving the safety, standard and quality of food and food outlets. This is achieved by a number of key activities:
 - The inspection of food outlets
 - Emergency and voluntary closure of food outlets
 - Seizing and destroying unfit and potentially unfit food
 - Food and environmental sampling

- Responding to complaints about food and food outlets
- Intelligence gathering
- Investigation of food related cases/outbreaks of infectious diseases
- Education and advice
- Food Hygiene Rating Scheme (FHRS)

1.4. All these activities are aimed at improving the safety and quality of food and food outlets, and reducing the number of cases of food related illness arising in the District. More information on each of these activities is contained in the full Food Law Enforcement Service Business Plan itself, which is attached as Appendix 1 to this report.

RISK ASSESSMENT

3.1 Legal

The Council is responsible for food safety in the district. Failure to affectively monitor food safety puts the public at risk. The plan shows how the Council will improve food safety in order to protect the public. The legal risk is low as the Council are taking steps to monitor food safety.

3.2 Financial

The costs associated with the delivery of the Food Law Enforcement Service Business Plan 2019/20 (mainly officer time) can be accommodated within existing budgets. The financial risk is, therefore, assessed as low.

OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

CONTACT INFORMATION

Tim Braund, Head of Regulatory Services, Tel: 01629 761118,
Email: tim.braund@derbyshiredales.gov.uk

Amanda Goodwill, Principal Officer – Environmental Health, Tel: 01629 761316,
Email: amanda.goodwill@derbyshiredales.gov.uk

BACKGROUND INFORMATION

Food Standards Agency Audit of Service Delivery and Food Business Compliance –
Derbyshire Dales District Council

ATTACHMENTS

Appendix 1: Food Law Enforcement Service Business Plan 2019/20

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REGULATORY SERVICES
ENVIRONMENTAL HEALTH

COMMERCIAL TEAM FOOD SAFETY SERVICE PLAN 2019-20

Aim The Commercial Team aims to work with others:-

- to maintain and improve food safety standards for residents, employees and visitors to Derbyshire Dales;
- to meet the council's statutory responsibilities for food safety; and,
- contribute to the council's Corporate Plan

Service Manager Amanda Goodwill - Principal Environmental Health Officer

Contact Details 01629 - 761316

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1. INTRODUCTION and BACKGROUND

This document details the activities of the council's Commercial Team. It has been produced to reflect the requirements contained in:-

- The Food Standards Agency's Framework Agreement on Local Authority Food Law Enforcement.

1.1 CORPORATE PLAN LINKS

The work of the team needs to link with the council's current Corporate Plan priorities for 2015/19 (which are detailed below), whilst also noting necessary realignment with the new priorities moving into 2020.

CP1 Business Growth & Job Creation

TA1 Help New Businesses to Start

TA2 Help Existing Businesses to Grow

TA3 Promote Key Development Sites

CP2 Affordable Housing

TA4 Identify and Deliver New Affordable Housing Sites

TA5 Improve Housing for Vulnerable People

CP3 Market Towns

TA6 Reviving Stall Markets

TA7 Seeking Public Realm Improvements

CP4 A Clean and Safe District

CP5 Continue to Seek Efficiencies and Innovative Working Practices

The direct links with the council's Corporate Plan priorities are made in Section 2.1 Statutory and Discretionary Services. More details on how we deliver CP1, CP4 and CP5 are given in Appendix 1.

1.2 DESCRIPTION OF THE DISTRICT

Derbyshire Dales is a large rural district (approx.800 Sq Km) with a low population density. The population of approximately 71,977 (mid 2018 Population Estimate), is evenly spread across the area, as opposed to being clustered around large towns. There is a low ethnic population of 3.2% of residents and approximately 27% of the population are of retirement age. It is estimated that 4.9 million tourists visit the Dales each year due to its location in the Peak District National Park. It is interesting to note that a third of the nation's population live within one hours drive of the district due to its proximity to major cities such as Manchester, Sheffield, Derby and Nottingham. However, despite its affluent image there are pockets of deprivation.

1.3 THE COMMERCIAL TEAM

The Commercial Team is one of two operational teams within Environmental Health. The staffing resource is roughly comparable between the two. An organisation structure of the council is provided at Appendix 2.

The service is based at the Town Hall, Matlock, Derbyshire DE4 3NN, together with the majority of council services. The offices are open to the public, however all officers within the Team work in an

'agile' fashion whereby they are able to access all of the necessary council systems remotely to carry out their duties, therefore a 'hot-desk' only facility is provided at the Town Hall site. 'Front of house' and the first point of contact with the service is invariably carried-out by the Business Support Unit (BSU). Where a request for service requires an officer response the officer will endeavour to do so as soon as practicable and within 5 working days. If the issue is more involved or complex the officer may make a mutually agreeable appointment to progress the matter.

The Team does not operate an out of hours or call out service. Routine out of hours calls via the main daytime Customer Service number 01629 -761100 default to the District Council's recorded message and associated sign-posting. Emergency calls are routed via Derbyshire County Council's Emergency Planning duty officer. He or she will refer the matter to an appropriate officer detailed in the Council's Emergency Plan depending on the nature and urgency of the problem.

Service users may also contact the service, in the following ways:

- Council reception at the Town Hall (as stated above), open Monday to Friday between 9am and 5pm (with the exception of Wednesday morning which is 9.30am)
- By telephone – 01629 761212, 8.30am to 5pm Monday to Friday.
- By E-mail to officers individual e-mail addresses or to the general address: envhealth@derbyshiredales.gov.uk
- The Council also operates a general enquiries on-line form www.derbyshiredales.gov.uk/general-enquiries
- Environmental Health fax number: 01629 761165

2. SERVICE DELIVERY

Delivery of food safety is a statutory function for the council. The Commercial Team is a front line service that provides the council will a positive opportunity for community and business engagement, protection and economic development.

2.1 STATUTORY AND DISCRETIONARY SERVICES

CP ref	SP Ref ¹ No.	Statutory
CP1 CP4	EH 1	Act to bring about compliance with requirements of the food safety legislation in relevant premises via number of food interventions completed.
CP1 CP4		Meet the requirements of relevant government and agency requirements, codes of practice and guidance, for example:- <ul style="list-style-type: none"> • Food Standards Agency Agreement on Local Authority Food Law Enforcement. • Food Law Code of Practice. • Health and Safety Executive's Section 18 Standard on Enforcement.
		Operate the national Food Hygiene Rating Scheme for food business which is designed to improve public access to information about food hygiene and food safety standards of food business.
		Undertake a programme of food sampling to meet the requirements of the Food Law Code of Practice.
CP4		Investigate and respond to requests for service from the public in respect of commercial premises.
CP4		Act to achieve compliance with other relevant legislation in commercial premises e.g. smoke free and Sunday trading requirements.
CP4		Control the spread of infectious disease in the community by undertaking the investigation, statutory action and enforcement as appropriate of:- <ul style="list-style-type: none"> • Food poisoning outbreaks. • Food related illness. • Other relevant notifiable diseases (e.g. legionella).
		Discretionary
CP1 CP4		Provide information and advice to businesses where appropriate.
		Work in partnership with Derbyshire County Council to support schemes such as 'Heart of Derbyshire'.
		Provide information to the public on food safety.
		Support other service areas on environmental health issues.
		Work with and consult with partners and service users.

¹ Service Plan Reference

2.2 BUSINESS SUPPORT AND BETTER REGULATION

The Commercial Team aims to support positive business growth and development. The District Council is involved in the Better Regulation programme by the D2N2 (Derby, Derbyshire; Nottingham, Nottinghamshire) Local Enterprise Partnership (LEP). The wider council is also a non-constituent member of the Sheffield City Region LEP to ensure the geographical spread and diversity of the district is recognised and represented. The Better Regulation programme aims to link regulators and businesses together to remove barriers and so promote business growth. The Council also has the benefit of a full-time Business Advisor within Economic Development who has positive links with the Team.

2.3 DEALING WITH NON-COMPLIANCE AND ENFORCEMENT

2.3.1 Enforcement Policy

An Enforcement Policy has been adopted by the council in respect of enforcement activities to ensure they are proportionate, consistent, transparent and accountable. A copy of the Enforcement Policy is available on the council's website at www.derbyshiredales.gov.uk/your-council/policies-plans-a-strategies/corporate-enforcement-policy ; paper copies or electronic versions are available on request via legal@derbyshiredales.gov.uk or alternatively by telephoning 01629 761303.

A key priority for the Commercial Team is to ensure enforcement decisions are consistent with our Enforcement Policy, and any other enforcement guidance and standards issued by relevant government agencies such as the Food Standards Agency, the Home Office and the Regulators' Code.

2.3.2 Proportionality and Consistency

Enforcement action taken by officers will be reasonable, proportionate, risk-based and consistent with good practice and will take account of the full range of enforcement options. This includes educating business operators, giving advice, informal action, sampling, detaining and seizing food, serving hygiene improvement notices/ improvement notices, hygiene prohibition procedures/ prohibition procedures and prosecution procedures.

Where a Primary Authority partnership exists officers will attempt to resolve non-compliance by liaising with the Primary Authority where appropriate.

Except where circumstances indicate a significant risk, officers use a graduated approach (*the hierarchy of enforcement*) starting with advice/education and informal action and only moving to more formal action where the informal approach does not achieve the desired effect.

2.4 STATUTORY RETURNS

The service is required to make the following statutory/national returns with respect to 'food':

- Food safety service annual returns to Food Standards Agency.
- Private water supply information to Drinking Water Inspectorate.

2.5 EQUALITIES

The Commercial Team operates the council's Equalities Plan available on the website at <http://www.derbyshiredales.gov.uk/your-council/equalities/equality-scheme-and-action-plan> .

From the 2011 Census data it was identified that 2.9% of the Derbyshire Dales population is not English/Welsh/Scottish/N. Irish or British. Derbyshire Dales District Council subscribes to a telephone based interpretation service which can be used by Officers at any time, however where circumstances dictate, the Council will make arrangements for interpreters to visit in person. Some information from the Food Standards Agency is also available in other languages.

2.6 QUALITY ASSESSMENT OF OFFICER WORK

Monitoring arrangements to assist in the quality assessment of the officers' work include:-

2.6.1 Internal Monitoring

- Periodic review of high risk premises letters and post-inspection paperwork by the Lead Food Officer or Principal Environmental Health Officer (PEHO)
- Periodic review of Food Hygiene Rating scores and associated reports issued by officers
- Team meetings on an approximate 6 to 8 week basis
- Regular meetings between officers and PEHO
- Monitoring of performance at team meetings
- Participation in the inter-authority audits organised by the Derbyshire Food Liaison Group
- Participation in local and national consistency exercises for the Food Hygiene Rating Scheme

Accompanied inspection audits and associated documentation audits by the Lead Food Officer/PEHO are also used on occasion to ensure a consistency of approach.

2.6.2 Customer Survey

An on-line customer satisfaction survey was launched in October 2016. The link to the said survey is included within every food inspection report as standard. Uptake is also supported by a targeted mail-shot.

2.7 OFFICER TRAINING and CPD (continuing professional development)

Officer training needs and CPD requirements are reviewed as part of the council's annual Performance Development Review (PDR) process and flagged through 1-2-1's and team meetings as necessary. Officers receive structured training via various delivery models such as webinars, on-line training modules, regional practitioner short courses and seminars relevant to the activities undertaken by the team, plus information cascade by other officer's experiential learning.

2.7.1 Food Safety

The Food Law Code of Practice contains specific competency requirements for officers carrying out food safety official controls. Officers are actively encouraged to consider competency gaps that may prevent them from effectively delivering official controls through the PDR process and 1-2-1 discussions. To meet the Food Law Code of Practice officers undertake 20 hours CPD per year of which a minimum of 10 hours must be on core food matters directly related to official control delivery.

3 WORK-PLAN and RESOURCES

3.1 2018-19 WORK PLAN with relevant performance targets

Ref	Action	Performance Target/ comment	Actual
D	Customer survey respondents from business 'agree' or 'strongly agree' that their interaction with the service was fair, transparent and informative.	80% 'agree' or 'strongly agree' Respond if requested	100% n/a
D	Food advice given in response to enquiries	85% first response in 5 w/ds	>85%
S S	Food service requests		>85%
	Food complaint investigations		>85%
	Food safety planned interventions (High Risk & Low Risk)	95% undertaken	99% High 98% Low
	Food safety unplanned interventions	Prioritise as necessary	198
	Food safety revisits	Revisits undertaken	51
	Food other visits (e.g. advice/ premises checks)	As necessary	30
	3 days to undertake sampling	Sampling undertaken – reactive sampling	9
	Respond to food safety incidents	Appropriate action	100%
S	Percentage of food businesses rated 3, 4 or 5	Target 75%	>75%
D	Support DCC's 'Heart of Derbyshire' scheme	Advice and audit visits	5
S	Undertake Employee Personal Development Reviews and periodic reviews	by 15 th March 2019	Complete by 1 st May due to year end
	Training to meet Food Law Code of Practice	Relevant training provided	Complete
	Training to maintain officer competency		
	Submit required statutory returns	Returns submitted	Complete
S	Other requests for service	85% first response in 5 w/ds	>85%
S	Smoke-free or Sunday trading requests for service	100% of letters responded to within 5 w/ds	N/A
S	Investigation of confirmed or suspected infectious disease outbreaks	100% response in 1w/d	100%
	Respond to reports of food related illness or other relevant notifiable diseases	85% first response in 5 w/ds	100%
S	Private water supplies and private distribution systems	Risk assess any identified systems – referral to Public Health Team	No new systems identified
D D	Support on environmental health issues and partnership working	Appropriate action	Complete

* Ref Indicator of Statutory (S) and Discretionary (D) Services
Actual figures compromised by on-going systems upgrade

3.2 RESOURCE ALLOCATION

3.2.1 Full Time Equivalent (FTE) Officers

No. of Posts	Officers Resource	Food
1	Head of Service	0.04
1	Principal Environmental Health Officer ¹	0.30
2.5	Environmental Health Officers	2.09
1.6	Technical Officers	1.05
FTE TOTALS²		3.48

¹The Principal Officer is also responsible for managing activities other than food within the Commercial Team, plus the activities of the Public Health Team.

²Officers within the Commercial Team also cover other core activities such as Health & Safety, Infectious Disease and Animal Welfare. The 3.48 FTE equates to food only activity.

3.2.2 Resource Allocation Unplanned Events and Impact on Service Delivery

Limited resources within the team together with an extremely flat structure continue to present very real challenges against a back-drop of ever increasing numbers of food premises/food activities springing-up in the borough and the general churn of businesses changing hands. This situation is compounded still further by the proportion of unplanned work and unforeseen events based on current service demands and past experience.

A high percentage of the Team's work is planned but there is a significant proportion of unplanned work through-out the year from a number of work areas such as:-

- The implications of Brexit on food premises/suppliers
- food and food premises general issues;
- food premises requiring approval;
- food alerts;
- dealing with new businesses;
- general requests for service;
- health and safety accidents;
- infectious disease cases and/ or outbreaks;
- established and 'pop-up' festivals/events;
- enforcement and investigation work; and,
- under-taking a prosecution.

Issue prioritisation continues to be tackled through 1-2-1 meetings with staff and team meetings. Traditional approaches to operations continue to be challenged and redesigned, the most recent example of the latter being the trial use of an external contractor for low risk food inspection delivery (from July 2018), resourced following staff movement in the Commercial Team through retirement. This resource has proved very effective in helping to tackle a historic inspection shortfall whilst also absorbing some of the pressures concerning business start-ups (low risk only).

It should also be stated that on the back of the in-house STEP review it has been acknowledged by Corporate Leadership Team that additional management capacity is needed in the wider Environmental Health structure. Works are in progress in this regard.

In the 2018-19 report reference was made to the Regulating Our Future (ROF) agenda being developed and taken forwards by the FSA. Essentially the way in which food stuffs are brought to the market has become increasing dynamic in nature together with the way in which customers purchase foods, however the Food Law Code of Practice which states how food operations should be 'policed' at a local level has stood still. ROF attempts to tackle the need for change and continues to be informed by various targeted research activities, local authority pilots and regional engagement FSA driven events attended by local authority officers leads.

The nature of the service is such that an unplanned event which poses a significant risk to public health may occur at any time. In such cases a judgement will be made to determine the level and nature of resource required and the ability of the Team to deal with the event. There are a number of options either in isolation or combination which shall be considered:-

- Request for additional funding from the council's contingency budgets.
- Engaging specialist contractors or support to deal with the event or backfill officer time.
- Suspension of low risk planned work activities.
- Enhanced administrative support from BSU.

4. FOOD SAFETY

The work of the Commercial Team is currently linked to the Food Standards Agency's (FSA) Strategic Plan 2015-20 and in particular:

- regulation is effective, risk-based and proportionate -see 4.1
- enforcement is effective, consistent, risk-based and proportionate and is focused on improving public health - see 4.2
- food is safe to eat – see 4.3
- consumers can make informed choices about what to eat - see 4.4

4.1 FOOD SAFETY REGULATION

4.1.1 Food Premises Profile

The profile of food businesses on 31st March 2019 is:-

Type of Food Premises ¹	Cat A	Cat B	Cat C	Cat D	Cat E	Unrated/ outside	Totals
Primary Producers	0	0	1	1	20	3	25
Manufacturers/Packers	0	8	8	10	18	0	44
Importers/Exporters	0	0	0	0	0	0	0
Distributors/Transporters	0	0	0	2	12	3	17
Retailers G,G01-3	1	11	17	52	106	7	194
Restaurant/Caterers H, H01-08 & I	1	22	176	374	221	20	814
Total Number	2	41	202	439	377	33	1094

¹Premises list above includes a total of 10 Approved Premises – all based around manufacture

4.1.2 Food Safety Intervention Plan for 2019-20

Food safety interventions are planned using the risk rating criteria detailed in the Food Law Code of Practice. A computerised database generates a list of the premises due for an intervention during the year based on the risk rating given as a result of conditions found during the last intervention.

The intervention plan

Risk Category / minimum Intervention frequency	No. of Premises (at 31/03/2019)	Interventions outstanding from 2018/19	Interventions due in 2019/20	Revisits estimated 2019/20
A / 6 months	2	0	2	0
B / 12 months	41	1	10	2
C / 18 months	202	1	54	10
D / 24 months	439	3	76	16
E / 36 months or alternative enforcement ¹	377	34	19	0
Unrated	26	26	141	30
Outside scheme	7	0	0	0
Unplanned -new businesses			100	12
Total	1094	65	402	70

¹See 4.1.4 ²See 4.1.5

4.1.3 Food Safety Interventions

Where possible an intervention will be undertaken without prior notification in line with Regulation 882/2004 Article 3(2) which also identifies that visits may be carried out on an ad hoc basis.

Interventions are carried out in accordance with the Food Law Code of Practice and other recognised guidance as well as internal documented procedures. An intervention rating will only be given following an intervention that is an 'official control' that is an inspection, partial inspection or audit as defined by Regulation 882/2004 Article 2(1).

4.1.4 Alternative Interventions

The Food Law Code of Practice allows an alternative intervention strategy to be applied to Category E and some Category D risk rated food businesses that present little or no risk to public health or food safety. The alternative intervention can only be applied if the premises were previously subject to an official control but will not result in a change to the intervention rating.

At Derbyshire Dales District Council an on-line 'alternative intervention' scheme has been established for Category E rated premises. It is envisaged the scheme will be further developed to suitably accommodate some Category D rated premises in the future, whilst also ensuring compliance with the Food Law Code of Practice and the Food Hygiene Rating Scheme (FHRS).

4.1.5 New Premises

An initial visit to undertake an official control of a new food establishment will, whenever practicable, be made within 28 days of registration, opening of the business or the Team becoming aware an establishment is operating. However this requirement will be balanced against other work priorities. All interventions are undertaken in a risk based manner, this includes new business following an assessment of any available information including the registration form if submitted.

4.1.6 Overdue inspections

The Team aim to visit premises within 28 days of the date they are due for intervention to meet the Food Law Code of Practice. However, priority is given to higher risk premises (Category A to C), and requests for service concerning a risk to public health. This may result in Category D premises being visited past the 28 days. It should also be noted that some parts of the District are heavily geared towards the tourist trade, e.g. Matlock Bath. And therefore the trading year of some food businesses does not always sit comfortably alongside central guidance on inspection frequencies (as there can be periods of the year when premises are closed for a number of weeks at a time). In these instances 'next inspections' will be either brought forwards or put back at the discretion of Authorised Officer in conjunction with the Principal Officer. Every effort is made to complete the inspection programme by the end of the work-plan period as regards A to D rated premises. The planned intervention programme is monitored at team meetings to check on progress and if necessary appropriate measures can be put in place to help meet the intervention plan. (See Para 3.2.2)

4.2 FOOD SAFETY ENFORCEMENT

4.2.1 Not 'Broadly Compliant' Premises

Resources are focused at those food establishments in the District that do not meet the criteria for being 'broadly compliant'. These are premises that have a compliance score as set out in the Intervention Rating Scheme in section 5.6 of the Food Law Code of Practice of:-

- 15 or higher for hygiene and / or structure; and / or,
- 20 or higher for confidence in management / control procedures

Food businesses that fail to comply with significant statutory requirements will be subject to appropriate enforcement action and revisit(s). Revisits will focus on the contraventions identified at the intervention to ensure that they have been remedied before deciding that no further action is required. The timing of the revisit is determined by the result of the earlier intervention.

A staged enforcement approach which includes revisits, service of legal notices, informal interviews, issuing of simple cautions or prosecution is taken. All enforcement decisions are made in line with the council's Enforcement Policy (See Section 2.3).

4.2.2 Enforcement of E.coli Contamination Control Requirements

The Food Standards Agency has issued revised guidance on the steps that food businesses must have regard to control the risk of contamination from E.coli O157. Due to the serious consequences of E.coli food poisoning greater focus is placed on ensuring all food business have adequate controls in place. However butchers premises that handle ready-to-eat and raw foods often present the highest risk, due mainly to the high levels of contamination which occur during butchering carcasses and cutting meat. Such premises are subject to more detailed examination of their control measures.

Officers also use the revised guidance during food safety interventions in all premises to make an assessment of compliance against the said guidance. Prompt and decisive action will be taken to ensure that public health is protected as necessary.

4.3 FOOD IS SAFE TO EAT

4.3.1 Food Sampling

Food sampling is used to gather information about the microbiological quality and possible presence of harmful micro-organisms in foods produced and/or sold or used locally. Based on this information appropriate action can be taken to protect the consumer. Food sampling in the District is aligned with regional and local priorities as appropriate. Samples are examined and/or analysed by specific laboratories, see Appendix 4.

4.3.2 Food Complaints

A food complaint is classed as food (including drink) which has a problem concerning its fitness, its wholesomeness, or possible foreign body contamination. Investigations are carried out in accordance with the Food Law Code of Practice and relevant guidance and internal procedures.

4.3.3 Food Safety Incidents

The Team respond appropriately to any food safety incident notifications received from the Food Standards Agency. Given the sporadic and unpredictable nature of food safety incidents it is impossible to predict with any accuracy the likely activity and resources required. The resource implications when responding to a "For Action" report can be significant. Such incidents often require an immediate response involving significant resources. In such circumstances it may be necessary to meet these demands by disrupting other priority work, secondment of employees from other work teams within the council or the provision of funding for temporary resources.

This area also links with

- 4.1 Regulation - effective, risk-based and proportionate
- 5.4.1 Investigation and Control of Outbreaks
- 5.4.2 Investigation and Control of Food Related Illness

4.3.4 Imported Food

Imported food responsibilities are included as part of routine food hygiene inspections and sampling programme. A check for imported food is made during all planned food premises interventions. Any issues found are then investigated further to ensure food is legally imported.

4.4 INFORMATION FOR CONSUMERS

4.4.1 Food Hygiene Rating Scheme (FHRS)

The Food Hygiene Rating Scheme for all relevant businesses are available to consumers via the website at <http://ratings.food.gov.uk/>

Under the terms of the scheme food businesses can appeal against the rating given and can also request a revisit with a view to re-rating the premises. Although the level of such requests is low, going forwards there is the opportunity to charge for revisits. The latter aligns with other changes in regulatory activity and will be brought to the necessary decision forum in due course. Further details of the scheme are available at <http://ratings.food.gov.uk/>

4.4.2 Food Allergen Information Rules

Food allergens can be life threatening to those affected. Food allergens cannot be removed by cooking. It is essential to practice good kitchen hygiene, as well as careful separation, storage and labelling of ingredients when preparing food to protect customers with a food allergy.

The EU Food Information for Consumers Regulation (No.1169/2011) requires all food business to provide information about the allergenic ingredients used in food sold or provided by them. The lead for enforcement sits with Derbyshire County Council. However the power to undertake enforcement has also been given to district councils.

The initial focus during 2015-16 was to provide advice and information for businesses to comply. From 2017-18 onwards a staged approach to enforcement has been adopted in line with the Council's Enforcement Policy.

5. OTHER WORK AREAS

5.1 COMMERCIAL PREMISES REQUESTS FOR SERVICE

A diverse range of requests for service continue to be received by the Commercial Team from members of the public, commercial premises and other stakeholders. All requests are actioned as appropriate and the target is to provide a first response to 85% of requests in 5 working days.

5.2 ADVICE TO BUSINESSES

The Commercial Team work with businesses to help them to comply with the law and to encourage best practice. This is achieved through a range of activities including:-

- advice given during the course of an inspection and other visits;
- sign posting of significant topical issues at the footer of inspection reports;
- the provision of appropriate advice and sign posting from central government agencies;
- the Council website at www.derbyshiredales.gov.uk; and,
- response to direct enquiries (either to the Department or direct to officers).

5.3 ADVICE TO PUBLIC

Direct advice is given to members of the public via our website or on request; invariably this may result in electronic sign posting. Relevant information is developed, produced and/or purchased if the need is identified. This may be in conjunction with educational and promotional activities (see paragraph 5.8.1) or in response to topical issues. Articles may also be published in 'Dales Matters', the Council's magazine for residents delivered to all households in the District.

5.4 COMMUNICABLE DISEASE CONTROL

5.4.1 Investigation and Control of Outbreaks

The Commercial Team investigate any outbreaks or suspected outbreaks of food related infectious disease. This is undertaken in accordance with national guidance and on the advice of the Council's Proper Officer for Medical Advice who is the Consultant in Communicable Disease Control (CCDC) of Public Health England (PHE) (See Appendix 4). Actions are in line with procedures developed in conjunction with Public Health England and Derbyshire Food Liaison Group.

In the event of a major outbreak, the resources required will be significantly higher due to the intensive demands created. In such circumstances it may be necessary to meet these demands by the disruption of other priority work, secondment of employees from other work areas within the council or the provision of funding for temporary resources.

5.4.2 Investigation and Control of Food Related Illness

Notifications of confirmed food related illness suffered by residents of the District are reported by Public Health England on a weekly basis. A response matrix developed by Public Health England (PHE) and the Derbyshire Food Liaison Group is used to identify who may be contacted for further information or for an investigation to be undertaken. Arrangements are in place for PHE to contact us directly if they become aware of specific types of infections of public health significance that require a more immediate response such as a suspected outbreak or a person which falls within a high risk category as defined in national guidance.

5.4.3 Investigation and Control of other Notifiable Diseases

The Health Protection Regulations 2010 have widened the number of infectious diseases that are legally notifiable. The inclusion of legionellosis means that the Team may be called on to be involved in the investigation of legionella cases within the District.

5.5 SMOKE FREE

The Commercial Team enforce the Health Act 2006 and Smoke Free (Premises and Enforcement) Regulations 2006 in all food premises. Compliance checks are included in other visits to commercial premises and responses made to requests for service or concerns against premises.

5.6 SUNDAY TRADING

The Commercial Team enforce the Sunday Trading Act 1984. Responses are made to requests for service or concerns against premises.

5.7 PRIVATE WATER SUPPLIES

5.7.1 Private Water Supply

The Private Water Supplies Regulations 2016 require a risk assessment of all private water supplies; except for supplies to single non-commercial dwellings (unless a risk assessment is requested). Currently the council are aware of 227 private water supplies in the District (167 springs, 56 bore holes, 1 Rainwater and 3 mixed borehole and spring). Of that number 10 springs, 3 bore holes and 1 mixed spring and borehole serve registered food businesses (14 total).

5.7.2 Private Distribution Systems (PDS)

The Private Water Supplies Regulations 2016 include “private distribution systems” where mains water is further distributed e.g. industrial units, college/university campuses. The council has a statutory duty to identify such systems and carry out risk assessments to determine if the water in those systems meets statutory water quality parameters. The council can charge for undertaking risk assessments and recover the cost of any sampling required. The council must then carry out a risk assessment review every five years.

The council is not currently aware of any PDS in the District but efforts to identify a PDS continue as required by the Regulations.

5.8 EDUCATIONAL ACTIVITIES

5.8.1 Educational Events and Awareness Raising

The Commercial Team recognise the importance of education and promotion of relevant food safety messages. The Team are therefore fully engaged with other stakeholders such as the Food Standards Agency and Derbyshire County Council in this regard.

6. PARTNERSHIP WORKING

6.1 Liaison with Other Organisations

The Commercial Team liaise with other relevant organisations such as:-

a) Derbyshire Food Liaison Group

- Discussion on issues of consistency and enforcement.
- Development of county wide procedure documents and information resources.
- Development and periodic implementation of an Inter Authority Audit process.
- Development of partnership working with Derbyshire local authorities and Derbyshire County Council Trading Standards,
- Formal links via the Food Liaison Group with other agencies such as the Food Standards Agency, Public Health England and regional government offices such as the Care Quality Commission and Ofsted Early Years.

b) Derbyshire Food Sampling Group

- Development of a regionally co-ordinated sampling programme.
- Liaison with the Public Health England Food Examiners.

c) Public Health England

- Meetings with Consultant in Communicable Disease Control to discuss communicable disease control within Derbyshire.

d) Other Organisations

- Derbyshire County Council Public Health to help support public health initiatives in the District such as 'Heart of Derbyshire'.
- D2N2 (Derby, Derbyshire; Nottingham, Nottinghamshire) Local Enterprise Partnership.
- Sheffield City Region Local Enterprise Partnership.
- Violence and Alcohol Licensing (VAL) Group which links the Police, Derbyshire Fire and Rescue Service and relevant Council services involved in licensing of premises.
- UK Border Agency.
- Severn Trent Water Authority in respect of drinking standards and supply continuity.

6.2 Referrals to other organisations

Referrals are made where relevant information identifies that there is a wider regulatory interest. Relevant agencies to which referrals may be made include:

- Food Standards Agency
- Health and Safety Executive
- Other local authorities via Primary, Home or Lead Authority schemes
- Public Health England
- Derbyshire Fire and Rescue Services
- Derbyshire Police
- Ofsted Early Years
- Care Quality Commission
- Severn Trent Water Authority

6.3 Internal Consultations

The Team are statutory consultees on licence applications under the Licensing Act 2003 and for temporary event notices. The Commercial Team also consult:-

- With other sections within the Council; and,
- On building control and planning applications relating to food premises.

7. REVIEW OF SERVICE in 2018-19

7.1 ACTIONS AGAINST 2018-19 WORK PLAN

7.1.1 Intervention Programme

During 2018/19 we undertook 350 programmed food hygiene interventions and 198 non-programmed; a total of 548 interventions compared to 481 in 2017/18.

In 2018/19 we achieved 99% of our high risk food inspection targets. (Category A, B and C rated premises) compared to 96% in the previous year.

We also inspected 174 of 177 required category D (low risk) rated premises (98%) compared to 87% in the previous year.

7.1.2 Reactive Work Monitoring

In addition to the planned programme of work the Team receives a large number of requests for service both from business and members of the public. The list below gives details and numbers for those requests received in 2018/19:

- Complaints about extraneous matter in food = 11 (total of 9 in 2017/18)
- Complaints about chemical contamination of food = 0 (total of 0 in 2017/18)
- Complaints about microbiological contamination of food = 4 (total of 6 in 2017/18)
- Complaints about food labelling = 5 (total of 4 in 2017/18)
- Complaints about hygiene of food premises = 41 (total of 37 in 2017/18)
- Alleged food poisoning = 30 (total of 23 in 2017/18)
- Food enquiries = 169 (total of 144 in 2017/18)
- Requests for food hygiene advice = 77 (total of 75 in 2017/18)
- Requests for health certificates = 20 (total of 23 in 2017/18)
- Allergen complaint/advice = 4 Not previously reported

The total number of requests for service stands at 361*

* 12% increase on the previous year

Previous total 321

7.1.3 Food Sampling

Unfortunately our food sampling activity projected for 2018/19 needed to be suspended in order to respond effectively to a local incident, some of the activities have been carried forwards to 2019/20 and shall be covered in a subsequent report.

7.2 ENFORCEMENT ACTIONS DURING 2018-19

7.2.1 Legal Notices, Actions and Prosecutions at 31st March 19

Food	Reason
2 Voluntary Closure	Details in 7.2.2 below
3 Hygiene Improvement Notice (HIN)	Details in 7.2.3 below
Nil Prosecutions	N/A

7.2.2 Voluntary Closure of Premises

During the last financial year two food premises opted to close to remedy aspects of serious non-compliance found by inspecting officers on routine, unannounced visits.

7.2.3 Hygiene Improvement Notice (HIN)

In November 2018 it was considered necessary to serve a number of Hygiene Improvement Notices on a food premises within the district, compliance was pursued accordingly.

7.3 SIGNIFICANT ACTIVITIES in 2018-19

7.3.1 Supporting New Local Businesses & Business Diversification

During the 12 month period a further small local business have successfully 'up-scaled' their existing food production activity to achieve 'approval' status.

In order for the FBO to distribute over a wide geographical area they require conditional and ultimately full approval status from the council. Approval also allows a business to sell their products across the EU as they are given a unique approval number as part of the approval process which must be included on their labels.

This type of production and associated distribution requires detailed food safety management systems and ownership thereof. The nominated officer from the Commercial Team has worked intensively with the business for a relatively short period of time to help ensure compliance, realise approval status and maintain consumer confidence.

7.3.2 Supporting and Ensuring Compliance at Significant Local Events

Officers within the Commercial Team together with Public Health Team colleagues and other stakeholders continue to make a significant contribution to the smooth running and ultimate success of large scale high profile events within the District, considering aligned Food Safety, Health & Safety and potential Nuisance activity. The summer of 2018 saw the return of the Royal Horticultural Society (RHS) at Chatsworth (the event draws approximately 90,000 visitors across the whole event schedule). Other significant events include the YNot music festival, Eroica celebration of cycling, Chatsworth Horse Trials and Chatsworth Country Fair.

7.3.3 Working in Partnership Locally

2018-19 saw the continuation of the Heart of Derbyshire Healthy Eating Scheme for a fifth year. The scheme compliments the national Food Hygiene Rating Scheme (FHRS), by informing customers about the healthy options available as well as the safety of the food on offer. The scheme works by allowing businesses to make pledges to offer healthier options by, for example, reducing the amount of fatty foods on offer, reducing salt and sugar content, increasing the range of fruit and vegetable on offer and providing information about food allergens. The more pledges a business makes the higher the rating it will receive, with awards ranging from bronze to gold. To ensure that the food served is safe as well as 'healthy' all participating businesses have to score a minimum of 3 under the FHRS.

The scheme operates in partnership with Derbyshire County Council and is open to all Derbyshire Local Authorities. Participating businesses are shown on the County Council website. Derbyshire Dales hosts 50 businesses that have chosen to join the scheme.

7.3.4 Educational/Media Campaigns

Throughout 2018/19 the Commercial Team together with colleagues in Communications helped the FSA to cascade and engage with the public and business on matters of food safety by joining

various national awareness activities. The main focus this year has been the 'Easy to Ask' campaign which looks to engage with and further inform young people living with food allergies.

7.3.5 Project E Data Cleanse

January 2018 witnessed the launch of a joint working initiative with BSU colleagues to review the accuracy of our food premises database with the focus being on Category E's. This category typically captures low level and low risk food activities such as home caterers and other producers/retailers which as per the Food Law Code of Practice registered their activity with the local authority at a point in time. However there is no real incentive for the FBO to notify us of their business demise or up-scaling and similarly as a regulator we are obliged to consider such premises at a 3 year trigger point.

On the 1st January 2018 we had 799 category E's on our database, on completion of the project at the end of March 2019 (some 14 months later), the total number of valid category E premises stood at 377, a reduction of 422 premises (53%). It should be stressed that this outcome was the product of robust project development and implementation driven by the Principal Environmental Health Officer (PEHO), buy-in from the Business Support Manager and the collective efforts of nominated officers within BSU admin and BSU technical staff, plus Communications colleagues who helped refine on-line resources and Environmental Health staff who were tasked with some follow-up inspection activities.

Project overview – All 799 of the listed premises went through a triage system, the starting point being an overarching comparison with business rates and known pockets of development within the district; elements of duplication were also mapped at this stage. On completion all premises listed (some 780), were split into 11 groups/phases (containing approximately 70 premises) on Excel. Each phase was then tackled in turn. The PEHO reviewed the premises within each phase prior to release to BSU colleagues giving an indication of next actions, invariably the first response required the sending out of a bespoke Project-E e-mail or letter to the target premises or alternatively a telephone call to a pre-agreed script. Where premises were still operational they were directed down a bespoke on-line survey-monkey questionnaire which then fired into our back office systems for analysis of food safety risk and any inspection requirement by the PEHO. For those premises that remained non-responders after a 2 week period BSU followed-up with a further bespoke e-mail or letter. In parallel worksheets were generated for all targeted premises in each phase so that actions could be recorded and outcomes mapped across to the Excel master record. Troubleshooting meetings were held and as each phase was nearing completion the next phase was reviewed, released and tackled.

Outcome – Some 780 individual worksheets were generated in M3 (our database) during the 14 month project. Each worksheet contained 3 actions on average – 2,340 actions in total. We now have a much reduced and more accurate record of our category E premises, notably 377. In addition we have taken elements of the triage system and embedded them within a standard 3 yearly review approach to category E premises going forwards.

FSA recognition – Our efforts in tackling this issue were reported in our statutory end of year returns to the Food Standards Agency. The Performance Manager at the FSA commented '*Extremely encouraging to see....No doubt all of this is down to a great deal of hard work by the team, so please pass on my congratulations to everyone involved – the team should be very proud of what they've delivered*'.

One team, one Council, one purpose.

APPENDIX 1: LINKS WITH COUNCIL'S CORPORATE PLAN 2015-19

CP1 Business Growth & Job Creation

The team deliver a front line service that provides a positive opportunity for community engagement and for the Council to interact with local businesses and protect our community. It has been recognised in previous national indicator measurements that food grown and manufactured in an area helps contribute directly to a sense of local identity. The Derbyshire Dales boasts a wealth of start-up and well established food businesses of varying size, many of which have national and international brand recognition. All of which make a contribution to sustainable employment and communities whilst also helping to maintain the draw of significant visitor numbers throughout the calendar year.

We achieve this by:-

- Checking standards of hygiene in food premises to reduce the incidence of food poisonings and the impact that has on lost time from sickness.
- Operate the national Food Hygiene Rating Scheme for food business which helps the public make informed choices about where they eat.
- Interacting at an early stage with large scale event organisers in order to ensure compliance.
- Provide help and advice to new and existing businesses and help sign post them to other regulators as necessary.



CP4 A Clean and Safe District

The Council has a statutory duty to deliver the services provided by the Commercial Team. Most of the work of the team is based on the preventative side of public health and contributes to keeping Derbyshire Dales 'clean' and 'safe'.

We achieve this by:-

- Checking standards of compliance with food law including cleanliness within food premises and the production of safe food.
- Taking samples of food produced in the District to ensure it is safe.
- Checking standards of hygiene in food premises to help prevent food poisoning.
- Dealing with refuse and waste disposal issues associated with food premises to prevent pests in an area and problems to neighbouring residents.
- Operating the national Food Hygiene Rating Scheme for food businesses which is designed to improve public access to information about food hygiene and food safety standards of food businesses.
- Investigating cases of communicable disease such as food poisoning outbreaks or food related illness to help with control measures and prevent spread of illness in the community.
- Making checks during visits or responding to concerns to ensure premises meet smoke free laws which prevent exposure to the harmful effects of second hand smoke.

CP5 Continue to Seek Efficiencies and Innovative Working Practices

The Commercial Team led the way on agile working. It is fair to say this is now fully embedded and has become the norm as regards operational practise. Officers are able to access all back office systems from home and any web enabled locations. A hot desk facility is also operational from the Town Hall site; therefore officers have an increased flexibility to their working day, reducing down time and unnecessary mileage whilst promoting greater efficiency.

Looking forwards we want to:-

- Fully embrace the Regulating Our Future agenda
- Trial differing inspection techniques for high performing businesses
- Trial new technologies and inspection approaches which are fit for purpose

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DRAFT

APPENDIX 3: Regulating Our Future – modernising food regulation in the UK

What is ‘Regulating Our Future’ (ROF) all about? *The ROF agenda was first muted by the Food Standard’s Agency (FSA) approximately 3 years ago. The FSA recognised the fact that the term ‘food business’ now covered a multitude of differing operational models from that of the traditional high street to internet sales and food brokers etc. whereas the framework for regulation had failed to keep pace. There is a need for change. The ROF model is set to modernise how food businesses in England, Wales and Northern Ireland are regulated and check that our food is safe and is what it says it is. ROF is billed as a dynamic and flexible regulatory approach which can adapt as circumstances change and technology develops in the future.*

The five principles of ROF

- 1 Businesses are responsible for producing food that is safe and what it says it is
- 2 Regulatory decisions should be tailored, proportionate and based on a clear picture of UK food businesses
- 3 Regulators should take into account all available sources of information in respect of a business
- 4 Businesses doing the right thing for consumers should be recognised and action taken against those that do not
- 5 Businesses should meet the cost of regulation, which should be no more than they need to be

What are the key areas of focus?

Enhanced registration – *A new on-line registration service that will generate a unique reference number and collect more in-depth data from the FBO is currently in test with a view to a soft in launch March 2019 through to March 2020. In addition a ‘what will happen next’ pathway will be introduced together with improved sign-posting to FSA web based guidance. This unified oversight of all food businesses should enable improvements in risk identification and associated responses, improved consumer protection and better regulatory judgements.*

Segmentation – *The development of a more sophisticated ‘risk engine’ which uses a set of business rules to generate a ‘risk score’. The said score will then segment businesses into categories and the category determine the nature, frequency and intensity of any official controls, such as on-site inspection etc. Status – a version of the business rules are currently in test within a prescribed geographical area. It is anticipated such an approach will embrace earned recognition, intensify some activities and where necessary take some businesses out of scope altogether.*

Sustainable funding – *A regulatory model which is underpinned by full cost recovery for regulatory activities. Currently the FSA are working with the Cabinet Office Regulatory Futures Review team to shape thinking on ‘regulation’. Efforts are being made to establish baseline costs across the food and delivery landscape in order to fully inform an options appraisal. Other national and internationally recognised charging models are also being considered.*

Primary Authority National Inspection Strategies (NIS’s) – *To further enable those local authorities who already have a formal partnership with a ‘multi outlet business’ to decide the frequency, nature and intensity of official controls for that business. Presently a small scale pilot is scoping out how primary authorities might access business compliance data in order to inform their decision making. A comparison exercise has also been carried out as regards desktop outcome ratings compared to physical on-site inspection and associated rating – with the lessons learnt being published in September 2018 and a draft Standard for NIS being launched.*

ROF continues at a pace with LA’s contributing to the process of refinement.

APPENDIX 4: SPECIALIST SERVICE PROVIDERS

FOOD & WATER EXAMINERS

Public Health England
Food, Water and Environmental Microbiology Laboratory, York
Block 10, The National Agri-Food Innovation Campus
Sand Hutton
York
YO41 1LZ

YorkFWElab@phe.org.uk

General Office Tel: 01904 468 948
Transport Tel: 01904 468 949
Office Fax: 01904 468 082

CONSULTANT IN COMMUNICABLE DISEASE CONTROL

Consultant in Communicable Disease Control
Public Health Laboratory Birmingham
Heart of England NHS Foundation Trust
Bordesley Green East
Birmingham
B9 5SS

Duty Clinical Microbiologist Tel: 0121 424 3240
Medical Advice and General Enquiries Tel: 0121 424 3111

COMMUNITY AND ENVIRONMENT COMMITTEE
30 OCTOBER 2019

Report of the Estates and Facilities Manager and Neighbourhoods Manager

PROPOSED COMMUNITY ASSET TRANSFER – DOVERIDGE BURIAL GROUND

PURPOSE OF REPORT

The report considers a request from Doveridge Parish Council (DPC) for the transfer of the freehold of Doveridge Burial Ground and adjoining cemetery extension land to enable their continued use as a burial ground managed and operated by DPC.

RECOMMENDATION

1. That the terms outlined in paragraph 3 of this report for transferring the freehold of the Doveridge Burial Ground and adjoining land as shown edged red on the plan at Appendix 1 to DPC are agreed.
2. That it is noted that the disposal in 1. above comprises an undervalue transaction permitted under the General Disposal Consent 2003.
3. That each party meets their own legal costs.

WARDS AFFECTED

Doveridge

STRATEGIC LINK

The use of Council property for the benefit of the Communities that we serve assists in ensuring that the Council Leads the Communities of the Dales, improves quality of life for residents and, with partners, ensures the continued provision of excellent services

1 BACKGROUND

- 1.1 The District Council acquired the subject site in Doveridge in 2005 in accordance with its powers as Burial Authority under which the Council acquired and developed burial sites in areas where church yards were approaching capacity and there was a requirement usually from the local Council for further local provision.
- 1.2 The site of approximate 0.6 Hectares was developed by the District Council thereafter, with the provision of concrete grave headstone runs and associated paths, vehicle parking and turning areas, gates, fencing and signage. Part of the site was separately fenced to allow grazing use pending future use as a burial land.

- 1.3 The main site (excluding the extension grazing land) was consecrated for burial use in 2010 and, as has been the practice with other sites, was to be passed to the Parish Council to operate and administer. However, various issues arose following the use of the site by travellers and, given that DPC still had sufficient capacity at the church, it was agreed that the site be “mothballed” pending future discussion.

2 CURRENT SITUATION

- 2.1 In March 2018 the Parish Council contacted the District Council to ask that the site now be brought into use as the village churchyard was very close to reaching capacity. In subsequent discussions with officers it was agreed that the Parish Council would not only be prepared to assume responsibility for the future administration of the site, but would also consider accepting the entire grounds under a freehold transfer.
- 2.2 Under this proposal, DPC would have ownership and full management and maintenance responsibility for the burial ground and associated grazing land which is set aside as future burial ground extension.
- 2.3 Following the initial development of the site and prior to recent discussions with the Parish Council, a wide ranging review of the provision and management of Burial sites was undertaken in 2017 which, amongst other issues, concluded that future provision for the District be focussed at, the District Council’s six sites (Bakewell, Steeple Arch, Darley Dale, Middleton, Brailsford and Ashbourne) and that any future investment in Parish sites ceases.
- 2.4 Now that the site is consecrated, it is protected for future burial use. Since the site will be managed, maintained and operated by the Parish Council, there is no operational benefit in the District Council retaining ownership. Transfer of the small area of grazing land to the PC helps to safeguard future capacity whilst also allowing them to derive a small income for the site which will contribute to meeting their annual maintenance costs.

3 PROPOSED RECOMMENDATIONS

- 3.1 It is proposed that the Burial Ground and adjoining land (as shown edged red on the plan at Appendix 1) be transferred freehold to DPC as a Community Asset Transfer (CAT) subject to the terms outlined in paragraph 3.2 below
- 3.2 The key heads of terms for the transfer are as follows –
 - 3.2.1 Consideration of £1 payable if demanded
 - 3.2.2 Restriction to use as a burial ground for the benefit of the people of Doveridge and surrounding areas.
 - 3.2.3 Transfer in existing condition and subject to existing rights and occupations
 - 3.2.4 Each party to meet their own legal costs.

4 VALUATION/ ASSET MANAGEMENT

- 4.1 The proposed terms for the transfer of Doveridge Burial Ground and adjacent land to DPC constitutes an undervalue transaction as permitted under the General Disposal Consent 2003.
- 4.2 It is considered by the Council's Valuer that the value of the transfer equates to £40,000.
- 4.3 Under the General Disposal Consent 2003, Local Authorities are permitted to dispose of any interest in land held under the Local Government Act 1972 which they consider to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the area at less than best consideration subject to various conditions.
- 4.4 It is considered that the proposed terms for the transfer of Doveridge Burial Ground and adjacent land to DPC would comply with this legislation.
- 4.5 The Council's strategic approach to the management of its land and property assets is outlined in the Asset Management Plan (AMP) 2019 – 2023 which provides a framework within which property asset decisions can be made in support of the Council's corporate aims and objectives.
- 4.6 The AMP contains a target within the action plan to establish and clarify the ownership and maintenance liability of (closed churchyards and) cemetery extension land and develop a maintenance plan for their upkeep. In this case the transfer of Doveridge Burial Ground and adjacent land to DPC on the terms stated will remove a future maintenance liability for the Council whilst enabling local ownership and management of the site in support of the local community so accords with this action and the ethos of the AMP.

5 CONSULTATION

The relevant Ward Members have been consulted on the proposed transfer and any comments received will be reported verbally at the meeting.

6 OTHER EXPRESSIONS OF INTEREST

In addition to various general expressions of interest in development sites/opportunities across the District and the expressions of interest forming part of this report, no other specific expressions of interest have been received in relation to the subject site included in this report.

7 RISK ASSESSMENT

7.1 Legal

The General Disposal Consent 2003, Local Authorities prescribes transfers of land at an undervalue and the considerations are set out in the report. The transfer of

land accords with the District Council's policy, which includes the requirement to consult with Ward Members. The legal risk is therefore low.

7.2 Financial

Whilst this disposal is classed as an undervalue transaction, the proposed transfer of the Doveridge Burial Ground on the terms proposed will remove a future maintenance liability for the Council. Therefore the financial risk is low.

8 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

9 CONTACT INFORMATION

Mike Galsworthy, Estates and Facilities Manager, Tel. 01629 761207 or email mike.galsworthy@derbyshiredales.gov.uk

Keith Postlethwaite - Neighbourhoods Manager, Community & Environmental Services

Tel: 01629 761377

E-mail keith.postlethwaite@derbyshiredales.gov.uk

10 BACKGROUND PAPERS

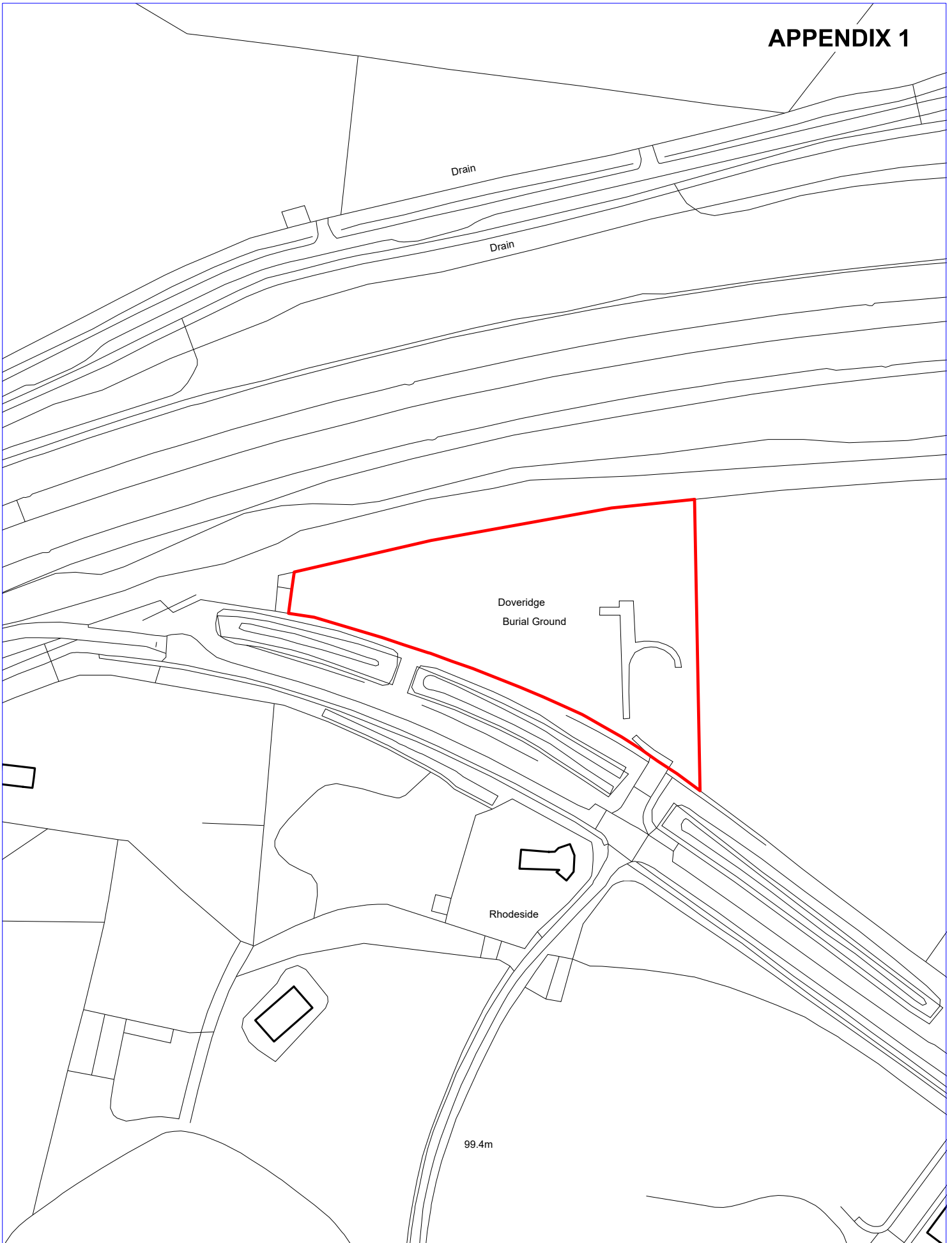
None

11 ATTACHMENTS

APPENDIX 1 – Plan for transfer

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APPENDIX 1



Report of the Head of Community & Environmental Services

REVIEW OF ASHBOURNE STALL MARKETS

PURPOSE OF REPORT

This report provides an update on the review of stall markets and recommends the closure of the Ashbourne (Saturday) market; noting the granting of a licence to occupy Shrovetide Walk and arrangements to transfer the Ashbourne (Thursday) market to a Community Interest Company.

RECOMMENDATION

1. To note the transfer of Ashbourne (Thursday) Market under a licence to occupy to commence 24 October 2019 for a 2 year period.
2. To close Ashbourne (Saturday) Market from 21 December 2019.

WARDS AFFECTED

Ashbourne North & South

STRATEGIC LINK

The Review embraces one of the District Council's priorities, which is to revive stall markets, whilst continuing to seek efficiencies and innovative working practices.

1 BACKGROUND

- 1.1 At the Partnership and Regeneration Committee in March 2012, the Overview and Scrutiny Committee presented a report reviewing the District Council's markets. The report recommended that Ashbourne (Thursday) market be closed.
- 1.2 At Community and Environment Committee in March 2017, a Review of Ashbourne and Wirksworth Stall Markets was presented recommending:
 - Ashbourne (Thursday) market close should it not achieve an average of more than 65% occupancy by September 2017.
 - Ashbourne (Thursday) market introduce a self-erect policy from 1 January 2018 should it achieve 65% occupancy.
 - That consultation shall take place to seek representations on the future of Wirksworth market.
 - Consultation begin on the relocation of Ashbourne (Saturday) market to Civic Square now Shrovetide Walk.
- 1.3 At Community and Environment Committee in November 2017, a report reviewing stall markets was presented with the following recommendations:

- That Ashbourne (Thursday) market becomes a self-erect seasonal market, opening in April and closing at the end of September annually
- That Ashbourne (Thursday) market close should it not achieve an average occupancy level of 70% or more by the end of June 2018
- That Wirksworth market is transferred to Wirksworth Town Council.
- That Ashbourne (Saturday) market is relocated to Shrovetide Walk in April 2018
- That alternative options for the use of Matlock Indoor market be considered.

1.3.1 District Council Officers have implemented a number of improvements to its markets including:

- Rebranding of its Markets and the market offer
- Increased online response via social media platforms for improved marketing and promotion
- Adverts in market specific magazines to attract new traders and improve footfall
- Restructured the market team to create more resilience
- Updated licences for traders to improve standard of traders standing on markets
- Set up and host regular trader forums

1.3.2 At Community and Environment Committee in February 2019, a report reviewing stall markets was presented with the following recommendations regarding Ashbourne markets:

- That a Licence to Occupy Shrovetide Walk is issued to Ashbourne Communities CIC (AshCom), to continue the Ashbourne (Thursday) market is noted.
- That Ashbourne (Saturday) market operates as a self-erect market and stall erectors receive redundancy from 23 February 2019.
- That Council is recommended to make the sum of £10,000 (£5,000 2018/19 + £5,000 2019/20) available from general reserve as a grant to Ashbourne Communities CIC to assist with the operation of the Ashbourne (Saturday) market for a minimum of 1 year.

2 REPORT

2.1.1 Ashbourne (Thursday) Market

2.1.2 Background

The report to the Partnership and Regeneration Committee in March 2012 reported that Ashbourne (Thursday) market was operating at 37% occupancy level by licenced traders with a further 17% by (regular) casual traders.

At the Community and Environment Committee in March 2017 the report showed that occupancy levels were as low as 2%. The report also recommended that the market should close if 65% occupancy level was not be reached by September 2017.

At the Community and Environment Committee in November 2017 the report recommended an extension be granted and a self-erect policy was introduced in April 2018. The report showed a combined loss for the Thursday and Saturday markets of £40,966.

2.1.3 February 2019 update

At the Community and Environment Committee in February 2019 the report updated on the current market occupancy levels and a proposal to transfer the market to AshCom under a licence to occupy. From April 2018 to December 2018 occupancy levels at Ashbourne (Thursday) market averaged 15 %. During this period the market generated £970 income.

As the market had not achieved the 70% target highlighted in the November 2017 report, discussions took place between officers and market traders regarding the closure of the market. During these discussions, market traders requested that the market remained open until December to allow them to benefit from Christmas trade and search for an alternative market. Taking into consideration the market traders request and the low operational costs due to the introduction of a self-erect policy, officers agreed to provide a temporary extension until 20 December 2018.

In December 2018 the District Council was approached by a Community Interest Company (AshCom) with a proposal to continue the operation of the Ashbourne (Thursday) market, under a licence to occupy on Shrovetide Walk.

2.1.4 October 2019 update

Over the last 11 months discussions have taken place between the District Council and AshCom with a view to AshCom taking over the market on Shrovetide Walk.

The final licence was agreed in October 2019 by both District Council Officers and representatives of AshCom for the market to be transferred to AshCom and remain on Shrovetide Walk from 24 October 2019.

It's worth noting that no grant was included in the transfer of the Ashbourne (Thursday) market.

During the negotiation period, and due to the low number of traders on the Market, operation was at zero cost to the Council whilst finalising the licence.

2.2 Ashbourne (Saturday) Market

2.2.1 Background

A report to the Partnership and Regeneration Committee in March 2012 stated that Ashbourne (Saturday) market occupancy level was 29% (licenced traders) and 13% by (regular) casual traders.

At the Community and Environment Committee in March 2017 the current occupancy level had increased to 53% including licenced and (regular) casual traders.

At the Community and Environment Committee in November 2017, the report recommended that the market should close if occupancy levels do not achieve an average of 70% by June 2018. The market was to introduce a self-erect policy in April 2018 and become a seasonal market, opening in April and closing at the end of September, if the minimum occupancy level could be met. The report showed a combined loss for the Thursday and Saturday market of £40,966.

In June 2018, discussions took place with Ashbourne Town Council and market traders regarding the proposed relocation of the Ashbourne (Saturday) market from the Market Place to Shrovetide Walk, as approved at the November 2017 Community & Environment Committee.

2.2.2 February 2019 (update)

Between April and December 2018, the average stall occupancy at Ashbourne (Saturday) market was 27%. During the same period the market generated an income of £3,610. However the market's financial projection for 2018/19 was an overall loss of £18,644.

In September 2018, officers of the District Council and representatives of AshCom entered into formal discussions regarding the transfer of Ashbourne (Saturday) market. Since this time there has been ongoing dialogue between District Council officers and AshCom to help refine the initial proposals put forward by the group. AshCom requested the market remained on the Market Place.

A proposal to transfer the market to AshCom was approved with a £10,000 grant to support the start-up and ongoing operation costs.

After intensive research AshCom took the decision not to take over the operation of the regular Saturday Market for the following reasons:

- The grant of £10,000, which would have been repayable should the market not operate for a minimum period of a year, was considered too great a risk for a Community Interest Company taking, into account the current situation of the market.
- Ashbourne doesn't have the footfall for two regular weekly markets.
- Locally there is more competition with well-established markets on a Saturday.
- Thursday has more consistent traders to help start the rejuvenation of the market.
- The land at Shrovetide Walk lends itself to setting up a market with less risk compared to the Market Place. The Market Place has complications in regards to closing off the car park, local traders requiring access around the market space and the land is sloped and cobbled.
- Shrovetide Walk provides immediate access to parking and easier access for disabled, particularly wheel chair users.

Proposals included in the February report:

- The market will implement a self-erect policy from 23 February 2019.
- Should the Market remain under the operation of the District Council, the market will move to Shrovetide Walk from the Market Place in April 2019 as approved in the November 2017 report.
- Should Occupancy remain below 70% by September 2019 then the Ashbourne (Saturday) market will close permanently.

2.2.3 October 2019 (update)

Ashbourne (Saturday) market statistics are based on 31 stalls being available and traders being charged £10.00 for standing on the market regardless of space taken.

Since April 2019 – Average of 13% stall occupancy, average of 4 traders per week.
Since August 2019 – Average of 10% stall occupancy, average of 3 traders per week.

When possible, half of the Market Place is used as the market and the other half as the car park. Car parking income from Saturdays in October is as follows:

5 October - £357.90

12 October - £165.50

19 October - £170.60

Please note that there were 0 traders on 5 October which saw an increase in parking income demonstrating the car park was well used on this day by visitors.

The market operative attends the Saturday market each week for 3.25 hours at a cost (made up of wages, tax, national insurance and pension) of £58.76 per week.

Using the Market Place for joint use as a car park and market increases some risks:

- Health & Safety risk of vehicle movements close to the market and visiting members of the public;
- Conflict between motorists and market traders. This is more common with motorbikes;
- The Council generates a proportion of the predicted £14,000 income the area would generate if operating as a car park;
- The market looks unattractive to customers when a number of vehicles are parked close to the stalls.

At Community and Environment Committee (February 2019) the proposal was to close the market in September 2019 should occupancy not reach 75%. An extension to this deadline was given due to talks with AshCom still being ongoing. A further extension is proposed until 21 December 2019 which would allow traders time to look for alternative markets and receive the Christmas trade.

3 RISK ASSESSMENT

3.1 Legal

The markets in Ashbourne, Wirksworth and Matlock were established by Royal Charter. The terms for relocation would be regulated by formal agreements. Whilst consultation has taken place, the legal risk is low to medium as the risk of a challenge cannot be fully mitigated.

3.2 Financial

Any additional income or savings in operational costs arising from this review will contribute towards the achievement of the Council's Corporate Savings Target.

The financial risk is assessed as low.

4 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

Dave Turvey - Events Manager
Telephone: 01629 761224
Email: dave.turvey@derbyshiredales.gov.uk

Ashley Watts - Head of Community & Environmental Services
Telephone: 01629 761367
Email: ashley.watts@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

None