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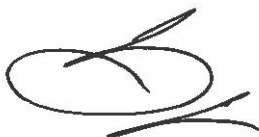
For assistance in understanding or reading this document or specific information about this Agenda or on the "Public Participation" initiative please call the Committee Team on 01629 761133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk)

10 June 2019

To: All Councillors

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday 18 June 2019** at **6.00pm** in the **Council Chamber, Town Hall, Matlock DE4 3NN**.

Yours sincerely



Sandra Lamb  
Head of Corporate Services

## **AGENDA**

**SITE VISITS:** The Committee is advised a coach will leave the Town Hall, Matlock at 2.00pm prompt. A schedule detailing the sites to be visited is attached to the Agenda.

### **1. APOLOGIES/SUBSTITUTES**

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

### **2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING**

Planning Committee – 12 March 2019

### **3. INTERESTS**

Councillors 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 Councillor, 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.

#### 4. APPLICATIONS FOR DETERMINATION

Please note that for the following items, references to financial, legal and environmental considerations and equal opportunities and disability issues will be embodied within the text of the report, where applicable.

##### PUBLIC PARTICIPATION

To provide members of the public **WHO HAVE GIVEN PRIOR NOTICE** (by no later than 12 Noon on the working day prior to the meeting) with the opportunity to express views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed. Details of the Council's Scheme are reproduced overleaf. To register to speak on-line, please click here [www.derbyshiredales.gov.uk/attendameeting](http://www.derbyshiredales.gov.uk/attendameeting). Alternatively email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk) or telephone 01629 761133.

	<b>Page No.</b>
<b>4.1 APPLICATION NO. 19/00076/FUL (Site Visit)</b>	<b>07 – 11</b>
Two storey rear extension at Park House, Matlock Green, Matlock.	
<b>4.2 APPLICATION NO. 19/00077/FUL (Site Visit)</b>	<b>12 – 20</b>
Extension and Conversion of garage to Holiday Let at Park House, Matlock Green, Matlock.	
<b>4.3 APPLICATION NO. 18/01318/FUL (Site Visit)</b>	<b>21 – 35</b>
Extend and refurbish teaching block, creation of car park and 2no. passing bays to access at Queen Elizabeth Sixth Form Centre, Boothby Meadow School, Cokayne Avenue, Ashbourne.	
<b>4.4 APPLICATION NO. 19/00042/FUL (Site Visit)</b>	<b>36 – 43</b>
Conversion and extension of stone barn to form a dwelling and removal of a redundant agricultural building at Barn adjacent to Old Vicarage, Ashbourne Road, Brassington.	
<b>4.5 APPLICATION NO. 18/01430/OUT (Site Visit)</b>	<b>44 – 68</b>
Residential development of up to 12 dwellings (outline) at Matlock Transport, Northwood Lane, Darley Dale.	
<b>4.6 APPLICATION NO. 19/00138/FUL (Site Visit)</b>	<b>69 – 78</b>
Erection of dwelling at Land Adjacent to Jenna, Burnett Lane, Hackney.	
<b>4.7 APPLICATION NO. 19/00485/S106M</b>	<b>79 – 84</b>
Proposed modification of Section 106 agreement dated 13 <sup>th</sup> December 2015 to amend the terms of the affordable housing provision and make provision for off-site sports contribution at Leys Farm, Wyaston Road, Ashbourne.	
<b>5. INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS</b>	<b>85 - 106</b>

## **6. APPEALS PROGRESS REPORT**

**107 - 159**

To consider a status report on appeals made to the Planning Inspectorate.

### **Members of the Committee**

Councillors Jason Atkin (Chairman), Richard Bright (Vice Chairman)

Robert Archer, Matthew Buckler, Sue Bull, Sue Burfoot, Richard FitzHerbert, David Hughes, Stuart Lees, Joyce Pawley, Garry Purdy, Peter Slack and Alasdair Sutton.

### **Nominated Substitute Members**

Jacqueline Allison, Martin Burfoot, Paul Cruise, Tom Donnelly, Helen Froggatt, Chris Furness, Susan Hobson, Michele Morley, Tony Morley, Peter O'Brien, Mike Ratcliffe, Steve Wain and Mark Wakeman.

## **PUBLIC PARTICIPATION**

Members of the public may make a statement, petition or ask questions relating to planning applications or other agenda items in the non-exempt section of an agenda at meetings of the Planning Committee. The following procedure applies.

- a) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised by the Committee Chairman (in consultation) in advance of the meeting. On line information points will make that clear in advance of registration to speak.
- b) Anyone wishing to make representations at a meeting must notify the Committee Section before Midday on the working day prior to the relevant meeting. At this time they will be asked to indicate to which item of business their representation relates, whether they are supporting or opposing the proposal and whether they are representing a town or parish council, a local resident or interested party.
- c) Those who indicate that they wish to make representations will be advised of the time that they need to arrive at the meeting venue so that the Committee Clerk can organise the representations and explain the procedure.
- d) Where more than 2 people are making similar representations, the Committee Administrator will seek to minimise duplication, for instance, by establishing if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.
- e) Representations will only be allowed in respect of applications or items which are scheduled for debate at the relevant Committee meeting,
- f) Those making representations will be invited to do so in the following order, after the case officer has introduced any new information received following publication of the agenda and immediately before the relevant item of business is discussed. The following time limits will apply:

Town and Parish Councils	3 minutes
Objectors	3 minutes
Ward Members	5 minutes
Supporters	3 minutes
Agent or Applicant	5 minutes

At the Chairman's discretion, the time limits above may be reduced to keep within the limited one hour per meeting for Public Participation.

- g) After the presentation it will be for the Chairman to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers
- j) The relevant Committee Chairman shall exercise discretion during the meeting to rule out immediately any comments by participants that are not directed to genuine planning considerations.

## SITE VISITS

Members will leave the Town Hall, Matlock at **2.00pm prompt** for the following site visits:

		<b>Page No.</b>
<b>2.05pm</b>	<b>APPLICATION NO. 19/00076/FUL</b>  <b>PARK HOUSE, MATLOCK GREEN, MATLOCK.</b>  At the request of Officers for Members to assess the proposed development in its context.	<b>07 – 11</b>
<b>2.15pm</b>	<b>APPLICATION NO. 19/00077/FUL</b>  <b>PARK HOUSE, MATLOCK GREEN, MATLOCK.</b>  At the request of Officers for Members to assess the proposed development in its context.	<b>12 – 20</b>
<b>2.55pm</b>	<b>APPLICATION NO. 18/01318/FUL</b>  <b>QUEEN ELIZABETH SIXTH FORM CENTRE, BOOTHBY MEADOW SCHOOL, ASHBOURNE.</b>  At the request of Officers for Members to assess the impact of the development on its surroundings and the local environment, including the residential amenity of the occupants of nearby dwellings.	<b>21 – 35</b>
<b>3.30pm</b>	<b>APPLICATION NO. 19/00042/FUL</b>  <b>BARN ADJACENT TO OLD VICARAGE, ASHBOURNE ROAD, BRASSINGTON.</b>  At the request of Officers for Members to consider the extent of works carried out to the building and the impact of the development on the surrounding area.	<b>36 – 43</b>
<b>4.05pm</b>	<b>APPLICATION NO. 18/01430/OUT</b>  <b>MATLOCK TRANSPORT, NORTHWOOD LANE, DARLEY DALE.</b>  At the request of Officers for Members to assess the existing and future employment potential of the site, the impact on the character and appearance of the site and its surroundings, land drainage, tree protection and ecology matters.	<b>44 – 68</b>
<b>4.35pm</b>	<b>APPLICATION NO. 19/00138/FUL</b>  <b>LAND ADJACENT TO JENNA, BURNETT LANE, HACKNEY</b>  At the request of Officers for Members to assess the proposed development in its context.	<b>69 - 78</b>
<b>5.00pm</b>	<b>RETURN TO TOWN HALL, MATLOCK.</b>	

## **COMMITTEE SITE MEETING PROCEDURE**

The purpose of the site meeting is to enable the Committee Members to appraise the application site. The site visit is not a public meeting. No new drawings, letters of representation or other documents may be introduced at the site meeting. The procedure will be as follows:

1. A coach carrying Members of the Committee and a Planning Officer will arrive at the site as close as possible to the given time and Members will alight (weather permitting)
2. A representative of the Town/Parish Council and the applicant (or representative can attend.
3. The Chairman will ascertain who is present and address them to explain the purpose of the meeting and sequence of events.
4. The Planning Officer will give the reason for the site visit and point out site features.
5. Those present will be allowed to point out site features.
6. Those present will be allowed to give factual responses to questions from Members on site features.
7. The site meeting will be made with all those attending remaining together as a single group at all times.
8. The Chairman will terminate the meeting and Members will depart.
9. All persons attending are requested to refrain from smoking during site visits.

<b>APPLICATION NUMBER</b>		19/00076/FUL	
<b>SITE ADDRESS:</b>		Park House, Matlock Green, Matlock	
<b>DESCRIPTION OF DEVELOPMENT</b>		Two-storey rear extension.	
<b>CASE OFFICER</b>	Mr. Ecclestone	<b>APPLICANT</b>	Sharron Seal
<b>TOWN</b>	Matlock	<b>AGENT</b>	GRT Architecture
<b>WARD MEMBERS</b>	Cllr. P. Cruise Cllr. S. Flitter Cllr. D. Hughes	<b>DETERMINATION TARGET</b>	20 <sup>th</sup> March 2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Requested by Ward Member	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To assess the proposed development in its context.

**MATERIAL PLANNING ISSUES**

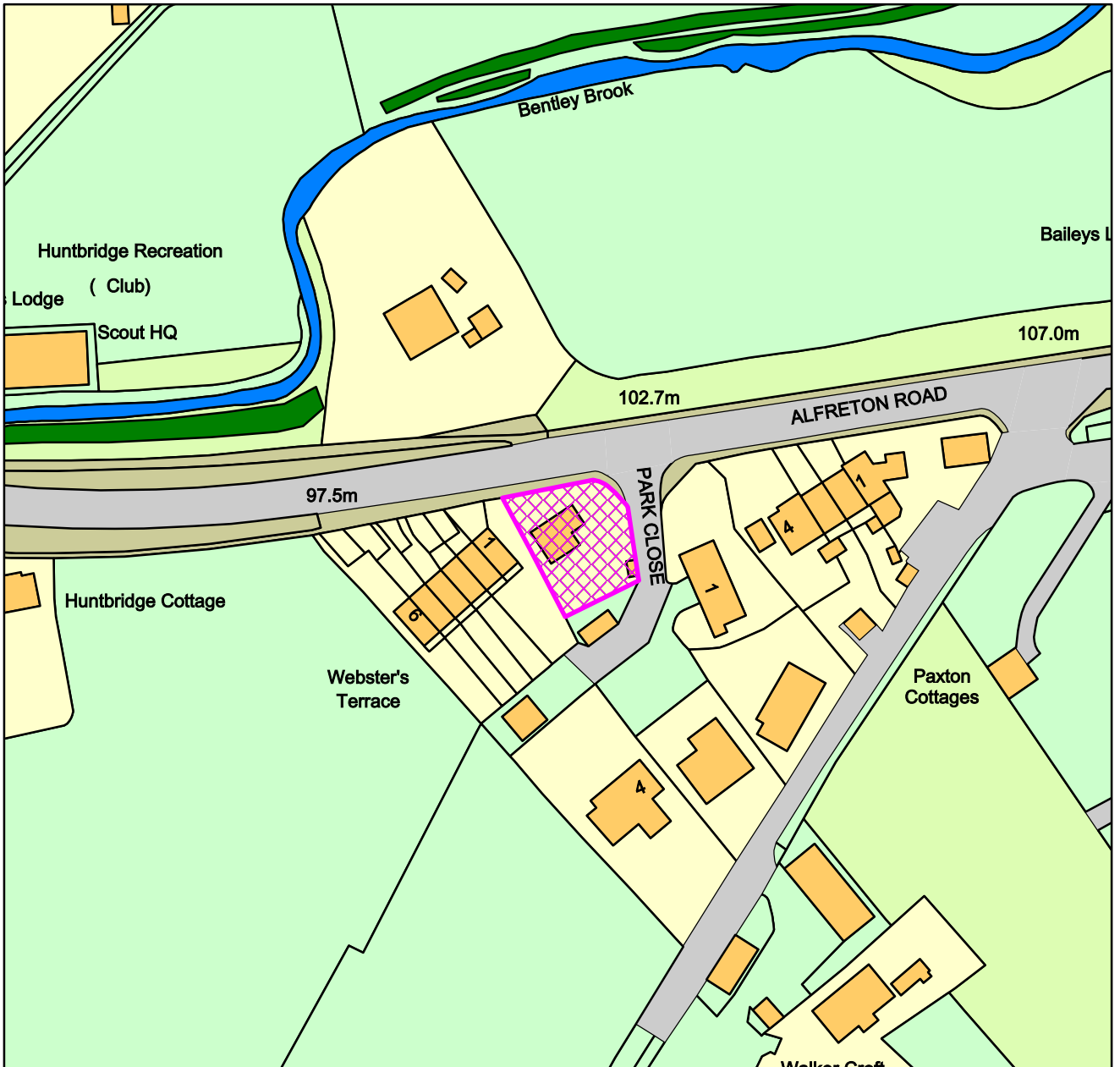
- Impact on the house
- Impact on neighbouring amenity

**RECOMMENDATION**

Approval

19/00076/FUL

Park House, Matlock Green, Matlock



Derbyshire Dales DC

1:1,250

Date: 30/05/2019

100019785

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Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk



## THE SITE AND SURROUNDINGS

The application property is a detached house, situated on the eastern outskirts of Matlock on the A615 Alfreton Road.



## DETAILS OF THE APPLICATION

The proposal is for a subordinate, two-storey rear extension which will be off-set to the side. Two rear dormers are also proposed.

It was originally proposed to add a pitched-roof to the currently detached flat-roof garage at the rear, but this element has now been removed from the application. There is also a separate planning application to convert the garage into a holiday let (Planning Application Number 19/0077/FUL) which is also on this agenda for determination.

## PLANNING POLICY AND LEGISLATIVE FRAMEWORK

Adopted Derbyshire Dales Local Plan (2017)

S4: Development in the Countryside

PD1: Design and Place Making

HC10: Extensions to Dwellings

National Planning Policy Framework

National Planning Practice Guidance

## RELEVANT PLANNING HISTORY

None.

## CONSULTATION RESPONSES

Town Council:

No comment.

## **REPRESENTATIONS RECEIVED**

Representations were received from four neighbours, but these mainly related to the separate planning application for the garage conversion to a holiday let (Planning Application Number 19/0077/FUL). Of the issues raised, only the following are pertinent to this application:

Concern about construction vehicles affecting the shared drive and main road.

## **OFFICER APPRAISAL**

The main issues to assess are the impact that the proposed two-storey rear extension and dormer windows will have on the character and appearance of the house and also the impact that it will have on the surrounding area.

### Impact on the house

The proposed two-storey rear extension sits in from the eastern gable-end and will be constructed in complementary materials. As such, it is not considered to appear disproportionate or to have an adverse impact on the house or on the surrounding area. The amended rear dormer design incorporating matching pitched roofs is also considered to be appropriate to the character and appearance of the dwelling.

### Impact on neighbouring amenity

The proposed two-storey rear extension and rear dormers are set well away from neighbours without and any direct overshadowing or overlooking and they are not considered to have an adverse impact on neighbouring amenity.

### Conclusion

The proposal is not considered to have an adverse impact on the house or on the surrounding area and a recommendation of approval is put forward on this basis. The concerns about construction vehicles affecting the shared drive are noted, but this is a matter to be resolved between the parties and is not for consideration as part of this planning application.

## **RECOMMENDATION**

Permission be granted conditionally.

1. Condition ST02a: Time Limit on Full.

Reason:

Reason ST02a.

2. Condition ST06: Amended Application (Revised Plans)... 16<sup>th</sup> April 2019...002...

Reason:

Reason ST06.

3. Condition DM13: Materials to Match Existing Building.

Reason:

Reason DM13... Policies PD1 and HC10 of the Adopted Derbyshire Dales Local Plan (2017).

Note to applicant:

This Decision Notice relates to the following documents:

Drawings numbered 005, received by the Council on 23<sup>rd</sup> January 2019 and drawing numbered 002, received by the Council on 16<sup>th</sup> April 2019.

During the consideration of this application, the Local Planning Authority have engaged in a positive and proactive dialogue with the agent, which has resulted in revised proposals which overcame initial problems with the application, relating to the design of the rear dormer and the removal of the pitched roof to the garage, reflected in the revised planning application.

<b>APPLICATION NUMBER</b>		19/00077/FUL	
<b>SITE ADDRESS:</b>		Park House, Matlock Green, Matlock	
<b>DESCRIPTION OF DEVELOPMENT</b>		Extension and Conversion of garage to Holiday Let	
<b>CASE OFFICER</b>	Mr. G. A. Griffiths	<b>APPLICANT</b>	Sharron Seal
<b>TOWN</b>	Matlock	<b>AGENT</b>	GRT Architecture
<b>WARD MEMBERS</b>	Cllr. P. Cruise Cllr. S. Flitter Cllr. D. Hughes	<b>DETERMINATION TARGET</b>	20 <sup>th</sup> March 2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Requested by Ward Member	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To assess the proposed development in its context.

**MATERIAL PLANNING ISSUES**

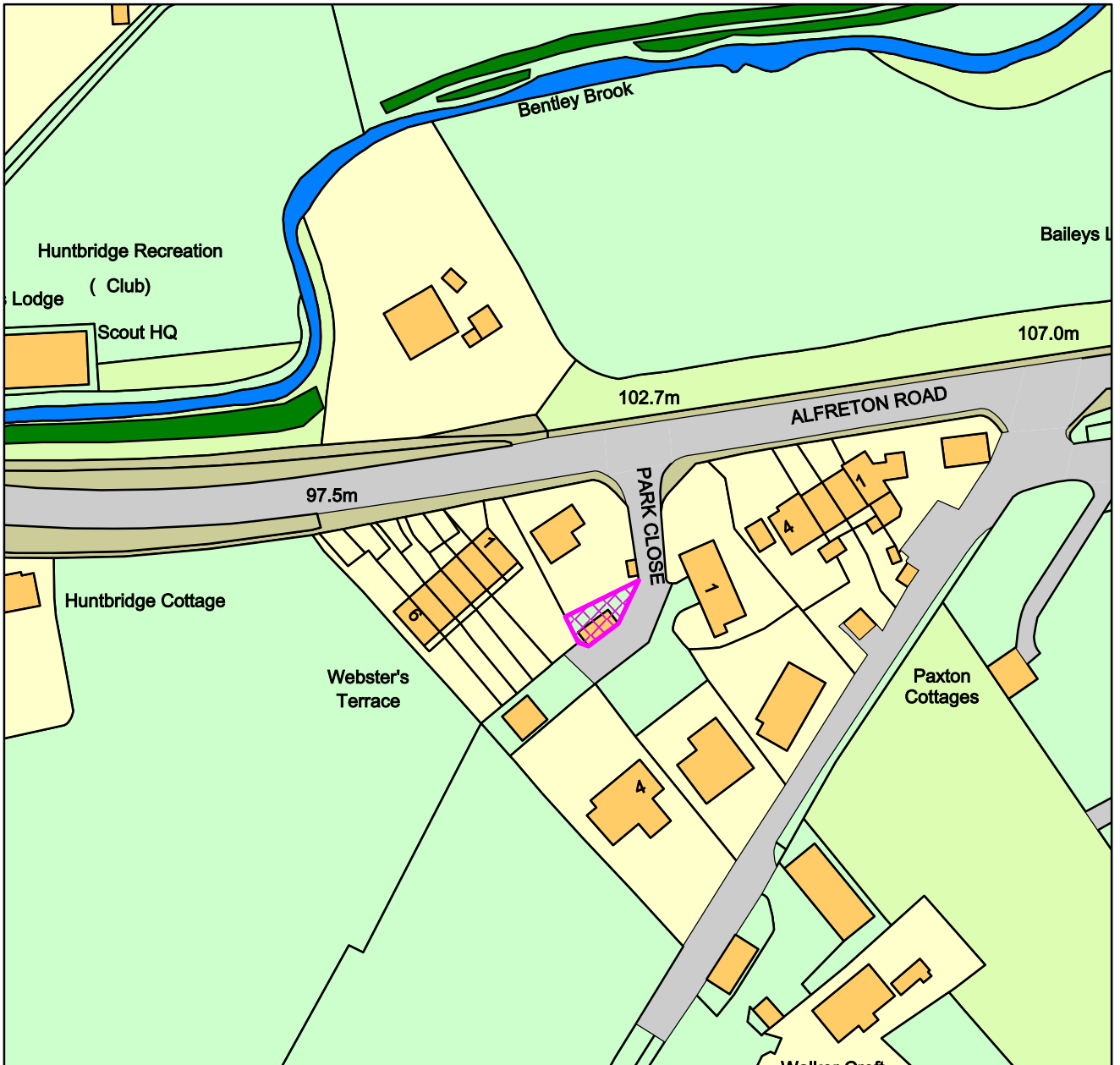
- Principle of Development
- Impact on the Character and Appearance of the Area
- Highway Safety
- Impact on Residential Amenity

**RECOMMENDATION**

Approval

19/00077/FUL

Park House, Matlock Green, Matlock



Derbyshire Dales DC

1:1,250

Date: 30/05/2019

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## 1. THE SITE AND SURROUNDINGS

- 1.1 The site contains a stone faced, flat roofed garage set on a raised area of land to the rear of Park House; the site is flat given the intervention of a retaining wall to what would otherwise be sloping land. The garage is accessed via the private drive to the east which also serves four other properties.
- 1.2 The building has a garage door facing the private drive. There is also a door and window in the north facing elevation. The property is within the settlement boundary for Matlock.



## **2. DETAILS OF THE APPLICATION**

- 2.1 Full planning permission is sought to place a pitched roof, to match that of the dwellinghouse, on the garage and to alter the building to form a holiday let. This includes blocking up the garage door with a glazed window/door frame and horizontal timber boarding. Timber boarding is proposed to be placed in the upper part of the gables created by the addition of the pitched roof. The door and window to the north side of the building are proposed to be replaced with two windows. The rainwater goods are proposed to be powder coated aluminium.
- 2.2 The building measures some 7.3m long by 3.5m wide and 3m high. The proposals, with the pitched roof, would increase the overall height to 4.5m. The accommodation would provide an open plan area for a kitchen/dining/living room/bedroom area and a separate shower room.
- 2.3 Access and car parking spaces would be provided by removing part of the boundary wall fronting the private drive and by re-profiling the land. There is also a need to extend the retaining wall further to the north by 1.1m to accommodate the car parking spaces. This would provide for two car parking spaces to the side of the building to serve the existing dwellinghouse and a space in front of the building to serve the holiday let. A modest amenity space is proposed to be provided towards the north and rear of the site with a fence erected to provide privacy.

## **3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

- 3.1 Adopted Derbyshire Dales Local Plan (2017)
  - S1 Sustainable Development Principles
  - S3 Development within Defined Settlement Boundaries
  - S7 Matlock/Wirksworth/Darley Dale Development Area Strategy
  - PD1 Design and Place Making
  - HC19 Accessibility and Transport
  - HC21 Car Parking Standards
  - EC8 Promoting Peak District Tourism and Culture
- 3.2. National Planning Policy Framework
- 3.3. National Planning Practice Guidance

## **4. RELEVANT PLANNING HISTORY**

- 4.1 None

## **5. CONSULTATION RESPONSES**

### Town Council

- 5.1 - no comment

### Local Highway Authority (Derbyshire County Council)

- 5.2
  - access and parking scheme, as amended, considered acceptable
  - require a condition that be provided in accordance with the additional plan
  - condition that one car parking space to serve holiday let and two spaces to serve dwellinghouse and retained as such.

### Environmental Health (DDDC)

- 5.3 - no objection

## 6. REPRESENTATIONS RECEIVED

6.1 Representations have been received by the occupiers of four neighbouring residential properties and the comments are summarised as follows:

- loss of privacy to dwellinghouses on Webster Terrace
- the building, with a pitched roof, will dominate the view from the back of neighbour's dwellinghouse at 1 Webster Terrace and will lead to a loss of light and put garden into shadow
- noise of people coming and going and doors banging
- impact of lights from cars and from the holiday let
- property has very limited, safe parking allowing for the parking of only two cars
- doubt that the parking proposed can be provided and there would be no provision for visitors
- parking area to the side of the proposed conversion would not be utilised as any vehicle would be boxed in by other vehicles – potential to result in parking on the shared element of Park Close as a more convenient parking solution which would contravene the terms of the property deeds
- drains/sewers were constructed to only serve four existing properties and another dwelling would put pressure on this facility
- previous applications to seek to convert the garage/workshop at 4 Park Close were turned down because of increasing vehicle access off Park Close onto the busy highway
- contest the conclusion of the Local Highway Authority that a holiday let would generate less traffic than a permanent residential dwelling
- query advice given in 2005 with regard to inadequacy of visibility splay onto A615 where the Local Highway Authority now consider this to be good
- was advised that the visibility from a minor 2m road looking east measures less than 30m rather than the 120m normally required for 40mph speed restricted roads
- Local Highway Authority limited private driveways to 5 dwellings unless the road was to adoptable standards
- private drive maintenance and upkeep is the joint responsibility of 1-4 Park Close and Park House
- additional parking could breach the parking covenant and cause social disharmony amongst the residents
- would be easy to overlook the wall removal to facilitate the access resulting in a breach of the covenant
- live in a residential neighbourhood - if holiday let approved, which will be a commercial business, will this affect taxes, services?

## 7. OFFICER APPRAISAL

### Principle of Development

7.1 The site is within the Settlement Boundary for Matlock, which is a first tier settlement, and is therefore deemed a sustainable location for development in accordance with Policies S1 and S3 of the Adopted Derbyshire Dales Local Plan (2017).

7.2 In terms of the proposed use as a holiday let, Policy EC8 advises that the District Council will support the development of Peak District tourism and encourages the provision of new tourist facilities. To this end, the principle of providing for such accommodation is acceptable in principle. However, there are site specific matters which need to be considered which include the character and appearance of the building to be extended and



utilised for tourist accommodation and the impact of such a the amenities of the area and highway safety which are considered below.

#### Impact on the Character and Appearance of the Area

- 7.3 The building is currently a functional garage and has little architectural merit; it is a simple stone built, flat roofed garage. The proposal to add the pitched roof will elevate the appearance of the building to some extent and take on some of the vestiges of a more traditional outbuilding. The introduction of the modern, metal framed windows and door, and the timber detailing on the gables, will give a more contemporary appearance to the building and elevate its visual appearance. Therefore, strictly from a design perspective, the proposals will enhance the character and appearance of the building.

#### Impact on Neighbour's Amenity

- 7.4 Several concerns have been raised with regard to the impact of the proposals on light, outlook and privacy of the occupiers of neighbouring dwellinghouses. In terms of outlook and light, the proposal will increase the height and mass of the building and an assessment is required as to the extent this will harm the amenity of neighbours.
- 7.5 The building is on the south eastern side of properties at Webster's Terrace. In this regard, whilst there may be some loss of sunlight to the upper levels of the rear gardens to the nearest properties in the morning, any overshadowing would cease by the late morning given the orientation of the building to the dwellinghouses. It is not considered that such overshadowing could reasonably sustain a reason for refusal of planning permission.
- 7.6 In terms of loss of outlook, it is appreciated that the building is on a raised level and that the proposals will increase the height of the building by 1.5m. However, this is not a wall but a roofslope sloping away from the properties to the north west at Websters Terrace. The nearest neighbouring dwellinghouse of the terrace is some 17m away. To this end, whilst there is a change in levels, it is not considered that the increase in height of a building of this scale would be such that it could be deemed to significantly harm the outlook to that property. Similarly, the properties of 1-4 Park Close are some 15-30m away.
- 7.7 In terms of privacy, the main impact from within the building is looking out of the proposed entrance/main window towards 1 Park Close. However, it is likely that when the building would be occupied that there would be a car parked in front of this opening obscuring the outlook. In addition, as a holiday let, it would be expected that the use of the premises would be in the morning and evening as holiday makers tend to go out for day trips.
- 7.8 There are windows proposed to face towards the applicant's dwellinghouse and those at Webster Terrace. However, it is considered that the siting of the proposed screen fence will obscure the outlook to the properties of Websters Terrace.
- 7.9 One point of concern is the sitting out area and the potential for holiday makers to overlook the neighbouring residents. There is obviously a potential for this area to be used for such by the existing residents of Park House. However, these would not be strangers to the neighbours and nor would the use of the area be likely to be so intensive as would be likely with this being the amenity space to a holiday let.
- 7.10 To this end, the applicant has detailed that a screen fence would be provided. The concern from the drawings is that this would not prevent overlooking to the west, across the rear gardens to the dwellinghouses of Webster's Terrace. However, it is considered reasonable to attach a condition that details of the fence and other boundary treatments be submitted as a condition on any grant of planning permission for approval of such details prior to the holiday let being brought into use.

7.11 Given the interrelationship of the proposed holiday let to Park House, it is considered reasonable to require that the holiday let remains as an ancillary part of that property and that it is not sold or let out separately. This also has the advantage that in the unlikely instance that issues of disturbance arise, that the owners of Park House would be likely to be on site to address such matters.

#### Impact on Highway Safety

7.12 Neighbours have raised concern with the proposals given that the Local Highway Authority has previously advised of their concern with the visibility to drivers of vehicles exiting Park Close onto the A615 in 2005 when permission was sought to change the use of a garage/workshop at 4 Park Close to a dwellinghouse. The Local Highway Authority has been made aware of these concerns and responded accordingly.

7.13 It is advised that the preferable splays are 2.4m by 103m and that minimum splays should be 2.4m by 89m. However, the Local Highway Authority has advised that these are guidelines and, whilst the fully preferred splay cannot be achieved, a splay close to the minimum can be. In addition, there is also adequate forward visibility for vehicles turning into the site. Each proposal is assessed on its merits and based on the TRICs data held Local Highway Authority, they consider a single bedroomed holiday let would not generate the same level of vehicular activity as a permanent dwelling and that the existing access is acceptable in this regard.

7.14 The Local Highway Authority did raise some concern with the site levels and gaining access onto the parking area. The applicant has submitted further details, to include a cross section to detail how access can be achieved. The Local Highway Authority has advised that this is acceptable subject to condition of its provision. In this regard, the proposals comply with Policies S1, S2 and HC21 of the Adopted Local Plan (2017).

#### Conclusion

7.15 The property is in a sustainable location within walking distance of the facilities of the town and local tourist attractions such as the Lumsdale Valley and High Tor. Therefore, the principle of conversion of the building to support tourism, and the benefits this brings to the economy of the District, is considered acceptable.

7.16 Whilst the building is not attractive, the proposals to provide the pitched roof, replace the garage door and to upgrade the openings are considered to be an enhancement of the building. A condition is required that sample/details of the materials for the roof, windows, door, cladding, barge board colour and rainwater goods be submitted for approval.

7.17 It is considered that there will be no significant impact to the amenities of neighbouring residents subject to ensuring the holiday let remains within the ownership of Park House and subject to a condition to achieve a reasonable level of screening of the proposed amenity area to safeguard the privacy of neighbours. Further conditions will be required to address the matters of parking and access provision at the site. On this basis, it is recommended that planning permission be granted.

## **8. RECOMMENDATION**

That planning permission be granted subject to the following conditions:

1. Condition ST02aTime Limit on Full

Reason:

Reason ST02a

2. The development hereby approved shall be carried out in accordance with the original submitted plans and specifications except as amended by drawing 004 received on 21<sup>st</sup> March 2019 and except insofar as may be otherwise required by other conditions to which this permission is subject.

Reason:

To define the permission for the avoidance of doubt.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order with or without modifications), the accommodation hereby approved shall be used solely for the purposes of temporary holiday accommodation and shall not at any time be occupied as permanent residential accommodation. No person shall occupy the holiday accommodation for a continuous period of more than 28 days in any calendar year or more than a total of 56 days in a calendar year and it shall not be re-occupied by the same person/s within 28 days following the end of that period. A register of all occupiers of the holiday accommodation, detailing dates of occupation, names and usual addresses, shall be maintained by the owner(s) and a copy shall be provided to Local Authority in writing by no later than 31<sup>st</sup> December each year.

Reason:

The development is considered inappropriate for use as a permanent dwellinghouse and to comply with Policies S1, PD1 and EC8 of the Adopted Derbyshire Dales Local Plan (2017)

4. The holiday let shall remain within the ownership of the occupiers of Park House.

Reason:

To safeguard the amenities of the area and in the interests of highway safety to comply with Policies S1, S3, PD1 and EC8 of the Adopted Derbyshire Dales Local Plan (2017).

5. Notwithstanding the details on the approved drawings and application details, prior to being provided, details/samples of the following shall be submitted to and approved in writing by the Local Planning Authority:

- the roofing materials;
- the timber facing;
- the colour of the barge boards;
- the door and window frames, to include their colour;
- the depth of recess of the windows and door;
- the facing materials for the retaining wall and its coping;
- the hardsurfacing and landscaping of the external area associated with the holiday let; and
- the screen fence, to include fencing on the western boundary.

The development shall be carried out fully in accordance with the approved details/samples prior to the holiday first being brought into use.

Reason:

To ensure the satisfactory appearance of the development and to safeguard the amenities of the area to comply with Policies S1, S3, PD1 and EC8 of the Adopted Derbyshire Dales Local Plan (2017).

6. Before the holiday let is brought into use, the area shown on the approved plans as reserved for parking of vehicles, and the access to this space, shall be provided in

accordance with the approved details. Thereafter, the area shall be used for those purposes only and maintained free from any impediment to its designated use.

Reason:

To ensure the provision of adequate off road parking in the interests of highway safety to comply with Policies S1, S3, PD1 and EC8 of the Adopted Derbyshire Dales Local Plan (2017).

7. At such times that the holiday let is in use, the parking space directly in front of the holiday let doorway shall be allocated solely to those persons using the holiday let and shall be retained as such for the life of the development.

Reason:

To ensure the provision of adequate off road parking in the interests of highway safety to comply with Policies S1, S3, PD1 and EC8 of the Adopted Derbyshire Dales Local Plan (2017).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no external alterations or additions shall be made to the holiday let, and no gates, fences or walls (other than those expressly authorised by this permission) shall be carried out within the curtilage of the holiday let without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason:

To preserve the character and appearance of the original building and its surroundings and to safeguard the amenity of the occupiers of neighbouring residential properties in accordance with Policies S1, S3, PD1 and EC8 of the Adopted Derbyshire Dales Local Plan (2017).

#### **NOTES TO APPLICANT:**

1. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £116 per request. The fee must be paid when the request is made and cannot be required retrospectively.
2. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in the submission of further details to address access and car parking provision on the site.
3. This decision notice relates to the following documents:

Drawing Nos. 001, 002 and 003 received on 23<sup>rd</sup> January 2019  
Additional Drawing No. 004 received on 21<sup>st</sup> March 2019.

<b>APPLICATION NUMBER</b>		18/01318/FUL	
<b>SITE ADDRESS:</b>		Queen Elizabeth Sixth Form Centre, Boothby Meadow School, Cokayne Avenue, Ashbourne	
<b>DESCRIPTION OF DEVELOPMENT</b>		Extend and refurbish teaching block, creation of car park and 2 no. passing bays to access	
<b>CASE OFFICER</b>	Chris Whitmore	<b>APPLICANT</b>	Mr Paul Haines
<b>PARISH/TOWN</b>	Ashbourne	<b>AGENT</b>	Mr Steve Day (YMD Boon Ltd)
<b>WARD MEMBER(S)</b>	Cllrs Bull and Lees	<b>DETERMINATION TARGET</b>	13 <sup>th</sup> March 2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Major development / application	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To assess the impact of the development on its surroundings and the local environment, including the residential amenity of the occupants of nearby dwellings

#### MATERIAL PLANNING ISSUES

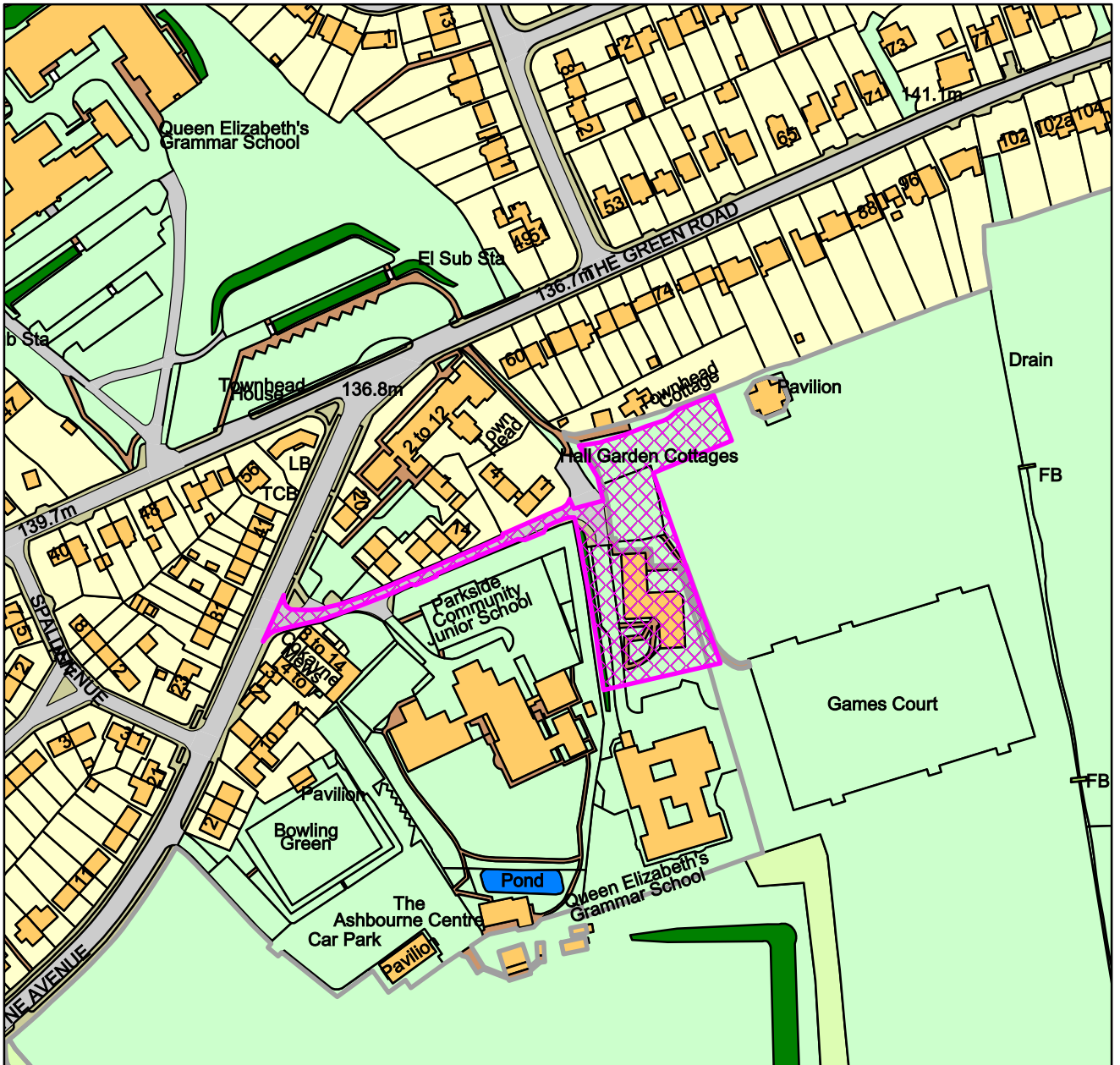
- Background / planning history
- Policy context
- The appropriateness of the teaching block extension, in terms of its scale, height, density, layout, appearance, materials and relationship to adjacent buildings, and
- The impact of the development on:
  - The residential amenity of the occupants of nearby dwellings
  - The local environment, including ecology / biodiversity and important landscape features, and
  - The local highway network.

#### RECOMMENDATION

That planning permission be granted with conditions.

19/01318/FUL

Queen Elizabeth 6th Form Centre, Boothby Meadow School, Cokayne Avenue, Ashbourne



Derbyshire Dales DC

1:2,500

Date: 30/05/2019

100019785

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Derbyshire Dales District Council,  
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk



# 1. THE SITE AND SURROUNDINGS

- 1.1 The site comprises a single storey brick building with a concrete tiled roof, forming part of the complex of buildings associated with Queen Elizabeth’s Grammar School Sixth Form on the southern side of The Green Road, close to Ashbourne Town Centre and an associated gravel car park and area of grassland to the north (see photographs 1 - 3). The single storey brick building currently provides changing facilities, classrooms, offices and storage. In total the site extends to a little over 0.4ha in area.
- 1.2 Immediately to the north of the site are Town Head Cottage (visible in photograph 3) and a series of dwellings which line the southern side of The Green Road. To the west of the site is Ashbourne Primary School (formerly Parkside Junior School) and to the east are sports fields and an existing pavilion building within the control / ownership of the school (see photograph 4). There is an existing hedge and some trees along the boundary between the application site and the adjoining dwellings to the north. There are two access points to the site, a pedestrian access via a public footpath from The Green Road and a vehicular access off Cokayne Avenue which is a narrow single track lane lined on both sides by established hedging (see photograph 5). The route of public footpath no. 11 Ashbourne lies close to and parallel with the northern boundary of the site.



(Photograph 1)



(Photograph 2)



(Photograph 3)



(Photograph 4)



(Photograph 5)

## **2. DETAILS OF THE APPLICATION**

- 2.1 Full planning permission is sought to extend and remodel the existing single storey red brick and concrete tile building to serve both Queen Elizabeth's Grammar School and Ashbourne Rugby Club. It is proposed to increase both the footprint of the building in an easterly direction and its height (to two storeys). The extensions to the building and introduction of a first floor will increase its overall floorspace by more than 1000sq. m and will enable nine new classrooms to be formed. At ground floor level the building will accommodate four new changing rooms, an entrance foyer, multipurpose function area and kitchen.
- 2.2 The remodelled building would be of a contemporary appearance which will incorporate a flat roof with projecting elements incorporating red and yellow coloured hoods (representing Queen Elizabeth's Grammar School and Ashbourne Rugby Club colours) and feature glazing. The main walls of the building will be faced in red brick and cedar timber cladding. New windows, curtain walling and doors will be finished in grey PPC aluminium. Existing aluminium windows will be finished the same colour. Retained brickwork walls will be clad in untreated cedar to mitigate junctions between retained and new brickwork.
- 2.3 The development will involve the removal of a hedge to the east. The applicant has indicated that all existing trees will be retained where possible. A preliminary ecological assessment and emerging bat survey have been prepared during consideration of the application. These documents are considered, where pertinent, in the officer appraisal section of this report.
- 2.4 The applicant advises that they intend to adopt a sustainable construction methodology. It is proposed to specify sustainable materials and systems including recycled and recyclable products, non-toxic materials and materials with a lower embodied energy. Priority will be given, where possible, to the use of locally produced or UK produced materials and energy efficient fittings and white goods will be used. The proposal will also incorporate / make use of the existing building.
- 2.5 In addition to the extension and remodelling of the existing building the development also involves the resurfacing and extension of the existing car park in a northerly direction and the formation two passing places along the existing vehicular access from Cokayne Avenue.

## **3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

### **3.1 The Development Plan**

#### Adopted Derbyshire Dales Local Plan (2017)

S1	Sustainable Development Principles
S2	Settlement Hierarchy
S3	Development within Defined Settlement Boundaries
S8	Ashbourne Development Strategy
PD1	Design and Place Making
PD3	Biodiversity and the Natural Environment
PD5	Landscape Character
PD6	Trees, Hedgerows and Woodland
PD7	Climate Change
PD8	Flood Risk Management and Water Quality
HC15	Community Facilities and Services
HC17	Promoting Sport, Leisure and Recreation



HC19 Accessibility and Transport  
HC21 Car Parking Standards

### 3.2 Other Material Considerations:

National Planning Policy Framework (2019)  
National Planning Practice Guidance

## 4. RELEVANT PLANNING HISTORY:

- 4.1 17/00630/FUL - Erection of pavilion, associated car parking area and access – Refused for the following reason:

*The proposed pavilion building by reason of its scale and proximity to the boundary of the dwelling immediately to the north would have an overbearing impact on this dwelling undermining the enjoyment of the property and its garden. In addition the usage of the extended car park by vehicles and patrons would significantly increase noise and general disturbance. These impacts individually and cumulatively would result in significant detriment to the living conditions of the occupiers contrary to Policies SF1, SF5 and L2 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.*

- 4.2 17/00041/FUL – Erection of pavilion, associated access and parking area – Withdrawn

## 5. CONSULTATION RESPONSES:

### Ashbourne Town Council

- 5.1 Raise no objections, although comment that they would like to see the car park screened or dropped to a lower level to provide a buffer to neighbouring properties.

### Local Highway Authority

- 5.2 The application proposals include the provision of passing places on the access road. Whilst this is welcomed, the land is not public highway. It's therefore not clear if the applicant has the permission to modify the road as per the submitted drawings.

### Lead Local Flood Authority

- 5.3 Due to the nature and scale of the development the Lead Local Flood Authority do not wish to comment.

### Environment Agency

We have reviewed the submitted documents and on this occasion we have no formal comment to make as there are no environmental constraints associated with the site which fall within our remit.

### Peak and Northern Footpaths

- 5.5 Raise two concerns (i) vehicular access to the car park should not be possible from The Green Road via Footpath 11 and (ii) that sufficient width is left for FP 11 where it would run alongside and to the north of the extended parking area so that hedges would not overgrow the path and vehicles could not drive or park across this section of the path.

### Sport England

- 5.6 Not consulted, however, previously commented in respect of application code ref. 17/00630/FUL that the development would have no direct impact on playing pitches. They commented that the FA raised no objections to the proposal and the RFU identified the project as a key investment priority. As the development now involves the remodelling and

extension of an existing building, there is little / minimal encroachment of the existing sports fields.

#### 5.7 Derbyshire Wildlife Trust

Following consideration of the original scheme Derbyshire Wildlife Trust recommended that an Ecological Impact Assessment was undertaken by the applicant. This, alongside a Preliminary Bat Roost Assessment was prepared by Middlemarch Environmental, which determined that the building had a low bat roost potential and that only one nocturnal bat survey should be carried out between May and August. Derbyshire Wildlife Trust advised that this survey should be undertaken prior to determination of the application. A nocturnal emergence survey was carried out in May 2019 which concluded that no bat roosts were present in the sixth form building and that the proposed works would not therefore impact on roosting bats. Following receipt of this information Derbyshire Wildlife Trust have advised that the application can be determined and that no specific mitigation or licensing is required to enable works to proceed. Conditions relating to Mitigation for house sparrows and loss of native hedgerow are recommended should the Local Planning Authority be minded to approve the application.

#### 5.8 Environmental Health

As the proposed site is in close proximity to residential properties I would recommend the following hours of operation as a condition of the application:

Mon – Fri – 08:00 – 18:00

Sat – 08:00 – 13:00

No working on Sundays and Bank Holidays.

### 6. REPRESENTATIONS RECEIVED

- 6.1 Representations from four local residents have been received, two objecting and two neither objecting to nor supporting the application. Their comments are set out below:

#### Residential Amenity

- The use of the sports and the multi-purpose area should be limited to use by the school and other sports clubs, to provide changing facilities and refreshments during and directly after sports events.
- The property should be operated in line with the other buildings controlled by the school. We do not believe that it should be used as an entertaining area, available for social events. A strict time be implemented for the closure of the site, in line with the end of the sporting usage i.e. 9.00pm during week days and a lot earlier at weekends, as sporting events generally finish mid-afternoon.
- The new proposal successfully addresses a number of concerns which previously led to significant objections and the refusal of the earlier application - notably in extending existing buildings with a much improved design and reduced impact on neighbours. However, there remain some issues which need to be addressed. These relate mainly to the building's use by Ashbourne Rugby Club and specifically access, car parking and social use.
- Car parking will be directly adjacent to one property and visually intrusive for them and for others, with noise and light disturbance. Currently cars are parked informally on the grass and that could still happen at times of high use of the facilities, exacerbating the problems. Greater use could be made of the current car/bus park

on the main school site, which will not normally be in use at the same time as rugby club activities.

- Whilst the school has given assurances about limits on social use, the rugby club's website notes their involvement in the development of new facilities which (amongst other things) "...will allow us to hold other club events". This again raises concerns about noise disturbance for neighbouring properties.
- The location and design of the buildings are a vast improvement on the previous proposals. However, the issues noted above need to be addressed, at the very least through planning conditions, if intrusion on neighbouring properties is to be avoided.
- The new tarmac car park would impact on our back view from the kitchen. Currently when cars park and manoeuvre on the field after dark, their headlights shine directly into our kitchen, lounge and bedroom window.
- The new tarmac car park would also create more noise, which is currently very audible on a busy night of sports activity.
- There will be an overbearing impact of the cars proximity to the house. Cars would be able to park and view directly into the front bedroom windows of Town Head Cottage. The car park would have an impact on the full use of the garden as people would be able to look in and the noise generated would also be disruptive.
- The development would be contrary to paragraph d) of policy HC17.
- The AstroTurf pitch is already used during the hockey and football season in the evenings and at the weekends. If the rugby club locate in the new facilities, there will be no respite in terms of traffic, levels of noise and general disruption.

#### Traffic and Impact on Highway Safety

- Although passing bays are proposed, there is still bound to be a significant increase in traffic on an inadequate access road (with the potential to increase the often severe congestion on Cokayne Avenue). This narrow, one-way lane also serves a primary school and sheltered housing, where residents expressed deep concerns previously.
- The proposed access road is inadequate for the proposed use and with the Rugby Club using the facility there would be an increase in vehicle and foot traffic. Current usage is already unmanageable and disruptive. Increased usage would only exacerbate the problem further.
- Previous permissions require the parking facilities within the main school site to be made available during the operational hours of the sports facilities and that no other vehicles, other than those of disabled persons shall park within the school site south of The Green Road in the interests of highway safety and the amenity of local residents.

#### Other matters

- Due to the proximity of residences to the new proposal and as it is on school property no alcohol should be sold or consumed on these premises. We would hope that the school would support this requirement as the essence is for the

promotion of education, sport and health for children and not the need for a social club.

- We feel that the new site should be properly secured, when not in use, to deter any anti-social behaviour. Again, there is the need for a strict closure time to be imposed for the protection and safeguarding of the resident's right to enjoy their home environments.
- The formation of an alleyway along the boundary with Town Head Cottage would create the opportunity for antisocial behaviour.

## **7. OFFICER APPRAISAL**

### *Background / planning history*

- 7.1 This application follows the refusal of planning application code ref. 17/00630/FUL for the erection of a freestanding pavilion building close to the northern boundary of the site, associated car parking area and access at the planning committee meeting on the 5<sup>th</sup> September 2017 and earlier withdrawal of application code ref. 17/00041/FUL.
- 7.2 The applicant has engaged in pre-application discussions with officers to seek to resolve previous concerns, particularly in respect of the location of any new building / accommodation and its impact on the residential amenity of the occupants of nearby dwellings.

### *Policy context*

- 7.3 Following refusal of application code ref. 17/00630/FUL the District Council has adopted a new development plan, the Adopted Derbyshire Dales Local Plan 2017. This forms the development plan for the purposes of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 7.4 Although the application is described as 'extension and refurbishment of an existing teaching block' the applicant advise in their Design and Access Statement and a supporting statement that the building will be shared by the school and Ashbourne Rugby Club. They point to the need for additional accommodation to respond to the growing number of pupils generated from recently approved housing developments in the area, in justifying the amount of new teaching accommodation / classrooms proposed. The Education Authority have agreed to release s106 monies, secured on the back of permissions for new housing development in the area, to the school to provide the additional classroom accommodation they require. The school advise that the opportunity also presented itself, and Ashbourne Rugby Club offered to contribute to the development in exchange for using the school changing facilities after school hours and weekends. The additional funding to be provided by the Rugby Football Union (RFU) and Ashbourne Rugby Club would ensure provision of state of the art sports facilities, which will be available for use by the pupils five days a week throughout the academic year.
- 7.5 Having regard to the proposed use of the building policies HC15 and HC17 of the Adopted Derbyshire Dales Local Plan (2017) are pertinent. Policy HC15 advises that the District Council will seek to maintain and improve the provision of local community facilities and services (including schools) by supporting proposals which protect, retain or enhance existing community facilities (including multi use and shared schemes) or provide new facilities, particularly within defined settlement limits. Policy HC17 deals specifically with the provision of new sports facilities and advises that development proposals involving the provision of new sports, cultural, leisure and recreational

facilities, or improvements and extensions to existing facilities will be permitted provided that:

- a) the proposals are connected to and associated with existing facilities, they are located at a site that relates well to the settlement hierarchy in the District or they are intended to meet specific rural needs that cannot be appropriately met at settlements within the settlement hierarchy;
- b) it is capable of being accessed by a range of transport modes and by disabled people and those with restricted mobility;
- c) it would not have an adverse impact on the character and appearance of its surroundings and the immediate or wider landscape;
- d) it does not create unacceptable problems in terms of the relationship between the proposal and the neighbouring uses beyond the development site.

7.6 In the case of the development proposal it would be closely associated / form part of the existing complex of school buildings and sports facilities used by various sports clubs. The site is also centrally positioned within Ashbourne, a Tier 1 settlement / main market town within the Derbyshire Dales District. The development would therefore be located in an area where it can both serve the local community and provide a needed facility for the school. Having regard to the other provisions of the aforementioned development plan policies, other relevant policies, consultation responses and representations received the main issues to assess in the consideration of this application are:

- The appropriateness of the teaching block extension, in terms of its scale, height, density, layout, appearance, materials and relationship to adjacent buildings, and
- The impact of the development on:
  - The residential amenity of the occupants of nearby dwellings
  - The local environment, including ecology / biodiversity and important landscape features, and
  - The local highway network.

*The appropriateness of the teaching block extension, in terms of its scale, height, density, layout, appearance, materials and relationship to adjacent buildings*

7.7 The application involves the extension of an existing red brick and tile building located immediately adjacent to the sports fields. Policy PD1 of the Adopted Derbyshire Local Plan 2017 deals with design and place making and requires development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes and contribute positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features amongst other considerations. Although the existing building is diminutive in its scale and form and is faced in traditional materials, it has a close visual association with buildings which are two storeys in scale. The remodelled building has been designed to incorporate a flat roof, reducing the mass of the building, so as to not appear visually intrusive when viewed from the immediate surroundings, including the nearby public footpath. The building will have a bold, contemporary design. It will have an irregular form and will incorporate feature glazing and projecting hoods finished in bold colours, which will reveal the identity of its users. The use of facing brickwork and timber cladding will, however, serve to ensure that the building has an affinity with and is respectful of the character and identity of this part of the town.

7.8 In its amended form the development will make use of a building which currently provides changing facilities, classrooms, offices and storage. Policies contained within the Adopted Derbyshire Dales Local Plan (2017) not only seeks to ensure that development responds to local distinctiveness and sense of place, they also seek to respond positively to the

challenge of climate change. The development would make use of / recycle an existing building and support the use of sustainable design and construction techniques. The building will also be energy efficient. The extension in terms of its construction, design and materials will therefore help minimise the effects of new development on the environment, an objective of Policy PD1 and PD7 of the Adopted Derbyshire Dales Local Plan (2017).

*The impact of the development on the residential amenity of the occupants of nearby dwellings*

- 7.9 A key consideration in respect of this application is the impact of the development on the residential amenity of the occupants of nearby dwellings, in particular the occupants of Town Head Cottage, located immediately to the north of the proposed car park. As can be noted from the representations received concern has been raised in respect of the intensification of use of both the extended building / sports facilities and car park and the potential impact this could have on the occupants of neighbouring dwellings in terms of noise / disturbance and light from vehicles.
- 7.10 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity. The revised siting and height of the resultant building relating to nearby properties is such that it would not result in any overshadowing, loss of privacy or overbearing effects. Noise from the use of the building as an extension to the school and sports facility would not give rise to any significant noise nuisance, given the distance between the building and the nearest residential dwellings. No objections have been raised by Environmental Health in relation to such use. A condition to control hours of construction is, however, recommended. The frequency of use of the site and associated facilities is unlikely to change as a result of the proposed development. To ensure that no significant intensification of use takes place (which would require further assessment), it will be necessary to restrict the use of building for use by the school and in association with sporting activities only and not for private functions and events. This will ensure that the residential amenity of the occupants on neighbouring dwellings will not be adversely affected by the use of the facility. The proposals do not include provision for a bar. It is intended that the kitchen and servery will be used to offer meals to players after participating in matches / training.
- 7.11 With regard to the impact of the car park extension on the residential amenity of the occupants of Town Head Cottage, the applicant has advised in a supporting planning statement that the new car park will provide 45 no. car parking spaces on a new tarmac surface, in order to formalise the existing arrangement where an uncontrolled number of vehicles park on the existing gravelled surface and part of the sports field adjacent to Town Head Cottage. The new car park will enable the school / rugby club to control this area, allowing a maximum of 45 cars to utilise the car park. The applicant advises that once the carpark is full, visitors will be required to park their cars at the school's main carpark across the road and that the carpark will be secured by a barrier to increase the security of the area avoiding unauthorised parking after hours. The applicant proposes a 5m separation gap between the carpark and the boundary with Town Head Cottage and the number of spaces has reduced from 47 to 45. The space between the car park and the boundary with Town Head Cottage offers the opportunity for planting or a form of boundary treatment that will prevent light pollution from motor vehicles.
- 7.12 The proposal involves the provision of new improved sports facilities on site and will not increase the number of users visiting the site for such purposes. The control over the volume of visitor vehicles to site and where they park could serve to improve the current situation. Although there may be greater use of the car park adjacent Town Head Cottage

during school hours (given the increase in classroom numbers and pupils / associated staffing, the level of disturbance associated with such use and relocation of the new accommodation away from this property is such that it is not considered that any adverse impact (in terms of the level of disturbance that would be generated) on the occupants of this property would, in itself, be so significant to warrant refusal of the application on such grounds. Conditions to secure an appropriate car park layout and boundary treatment would help to minimise the level of disturbance to the occupants of this property and any light pollution. No objections from the Environmental Health team have been raised in relation to the use of the car park and the potential for significant noise nuisance.

*The impact of the development on the local environment, including ecology / biodiversity and important landscape features*

- 7.13 Trees and hedgerows contribute to a diverse set of amenity benefits (including ecological, biodiversity, social, historical, economic, visual, mental and physical health, environmental, etc). The District Council Trees and Landscape Officer has considered the application and has advised that trees and hedgerows should be retained where practicable and protected according to current best practice methods. The applicant has advised that the development has minimal impact on existing planting and landscaping. Although the hedge to the east will need to be removed to accommodate the extension to the east of the building, the applicant has advised that all existing trees will be retained where is practical for them to do so. Given the close proximity of the extension to trees which provide an important landscaped setting to the building a condition is recommended to secure their retention and protection. A condition to secure a landscaping scheme specific to the development, including the passing bays and new car park is also recommended to mitigate the impact of the development on its surroundings and secure compensatory planting where necessary.
- 7.14 Having carried out a preliminary ecological assessment and bat roost survey the applicant has established that the development would not have any adverse impacts on bats or other protected species. Conditions to prevent the removal of the hedge during the bird nesting season (unless assessed by a competent ecologist) and to secure appropriate mitigation for house sparrows and loss of native hedgerow are recommended to satisfy the requirements of Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017).

*The Impact of the development on the local highway network*

- 7.15 The impact of a new pavilion building on the local highway network did not feature in the reason for refusal relating to application code ref. 17/00630/FUL. Although the Council has adopted a new local plan since the refusal of this application the provisions contained within this plan relating to highway matters are similar to the policies contained in the previous local plan. Policy S3 requires any new access to be safe and that the new highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development. Policy S3 also requires that the access and parking provision is appropriate to the proposed use of the site.
- 7.16 The existing access is used by Ashbourne Primary School (formerly Parkside Junior School and QEGS sixth form centre), teachers, pupils, visitors to each, Ashbourne Rugby Club players, Hockey players and local teams using the astro turf pitch. The application involves the upgrading of existing sports facilities on site and expansion of school accommodation, which is unlikely to result in a significant increase in traffic. The traffic associated with the use of the site as a sports venue would occur at different times to the traffic generated by the school. The provision of a formal car park will also restrict the number of vehicles that can access the site and the formation of passing places along the route of the access road will improve vehicular access. Whilst local residents have pointed to parking controls that are in place relating to the use of the lit astro turf pitch, there are no

such controls in place relating to the use of the school or sports fields (for rugby / any other sport and associated parking).

7.17 On the basis that the development (subject to planning conditions restricting use of the new facilities) will not result in any significant intensification of use of the site (above and beyond that which already exists) and that new passing places will be formed to improve vehicular access (which will need to be secured by condition) the development would, it is considered, satisfy the requirements of relevant development plan policies relating to highway matters.

7.18 Appropriate provision has been made to accommodate the public footpath which runs along the northern boundary of the site. Although reference is made in the representations received to the formation of an alleyway between the boundary with Town Head Cottage and the car park, the openness of this area (even with an appropriate boundary treatment / planting) is such that it would be unlikely to create an area for antisocial behaviour.

### *Summary*

7.19 In summary, the proposed development would deliver additional teaching accommodation and improved sports facilities in a sustainable location through the remodelling and extension of an existing building and car park. The use of traditional facing materials and contemporary design of the remodelled and extended building will result in a form of development that would have a positive impact on the character, history and identity of this part of the town. The formation of a new car park would also enable future control over parking and the formation of passing places will improve vehicular access to the site. Subject to conditions, it is considered that the development would satisfy the relevant provisions of the Development Plan and can be successfully accommodated on the site without detriment to the local environment. A recommendation of approval is put forward on this basis.

## **8. RECOMMENDATION**

8.1 That planning permission be granted subject to the following conditions:

1. The development hereby permitted must be begun before the expiration of three years from the date of this permission.

Reason:

This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

2. Prior to first use of the remodelled and extended building as a teaching or sports facility, passing places shall be formed along the route of the site access as set on drawings numbered J3792-YMD-XX-ZZ-DR-A-1001 Rev P1.

Reason:

To ensure the delivery of the access improvements in accordance with the aims of Policy S3 of the Adopted Derbyshire Dales Local Plan (2017).

3. Prior to installation, details of the following components of the development shall be submitted to and approved in writing by the Local Planning Authority:

- Samples of all facing materials to be used and details of colour finishes;
- Details of the timber cladding and brickwork junctions



- Rainwater goods and any external pipework, and;
- Details of window reveals and any heads and cills.

The development shall thereafter be carried out in accordance with the approved details and retained in perpetuity unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure a satisfactory external appearance of the development and compliance with policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

4. Prior to first use of the remodelled and extended building as a teaching or sports facility, the car park shall be extended and resurfaced in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. The submitted details should include details of the parking layout, which seeks to minimise the impacts of the car park on the occupants of Town Head Cottage to the north and any barriers / car park management. The car park shall thereafter maintained / managed in accordance with the approved details, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure appropriate parking provision and in the interests of minimising the impacts of the development of the residential amenity of the occupants of Town Head Cottage in accordance with the aims of Policies S3, PD1, HC17 and HC21 of the Adopted Derbyshire Dales Local (2017).

5. No machinery shall be operated on the site, no process or operations shall be carried out and no deliveries shall be taken at or despatched from the site except between 8:00 and 18:00 hours Monday to Friday and 9:00 and 13:00 on Saturdays or at any time on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To safeguard the residential amenity of the occupants of nearby dwellings in accordance with the aims of Policy PD1 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

6. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the remodelled and extended building shall be used as a teaching facility and in association with sporting activities only and for no other purpose, including any other activity within the same class of the schedule to that Order. Under no circumstances should the building be used for private functions unconnected to such use.

Reason:

To ensure effective control over the use of the building in the interests of highway safety and protecting the residential amenity of the occupants of nearby dwellings in accordance with the aims of Policies S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

7. A scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority within 56 days of the commencement of development, the details of which shall include :-
- a) indications of all existing trees, hedgerows and other vegetation on the land;
  - b) all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
  - c) measures for the protection of retained vegetation during the course of development (which shall include the trees to the south of the existing building) including a site specific Arboricultural Method Statement and Tree Protection Plan;
  - d) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection (including adjacent the passing places to the created)
  - e) finished site levels and contours;
  - f) Enclosure of the northern boundary of the car park, and
  - g) hard surfacing materials.

Reason:

To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features in accordance with the aims of Policies PD1, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

8. No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist. House sparrows, in particular, are known to nest in the roof of the school. If nesting birds are present, an appropriate exclusion zone shall be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason:

To ensure protection of nesting birds in accordance with the aims of Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017).

9. Prior to building works commencing above foundation level, a Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity with a timetable for completion of the works. Such approved measures shall be implemented in full and maintained thereafter. Measures shall include (but are not limited to):

- details of an integrated bat box at eaves level will be clearly shown on a plan (positions/specification/numbers).
- details of at least 2x sparrow terraces at eaves level will be clearly shown on a plan (positions/specification/numbers).
- summary of replacement native hedgerow and tree planting to achieve net gain (full details to be provided in Landscape Plans).

Reason:

In the interests of enhancing biodiversity in accordance with the aims of Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2019).

## **INFORMATIVES:**

1. Prior to the submission of the application the applicant engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to the siting and scale of the building and the impact of the development on the residential amenity of the occupants of nearby dwellings.
2. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £34 per householder request and £116 per request in any other case. The fee must be paid when the request is made and cannot be required retrospectively.
3. This Decision Notice relates to the following documents:
  - 1:1250 Scale Site Location Plan numbered J3792-YMD-XX-ZZ-DR-A-1000 Rev P3;
  - 1:1000 Scale School Ownership Plan numbered J3792-YMD-XX-ZZ-DR-A-1002 Rev P1;
  - 1:500 Scale Proposed Block Plan numbered J3792-YMD-XX-ZZ-DR-A-1001 Rev P1;
  - Design and Access Statement;
  - External View Drawing numbered J3792-YMD-01-ZZ-DR-A-7000 Rev P6;
  - 1:200 Scale Site Plan numbered J3792-YMD-XX-ZZ-DR-A-1003 Rev P7;
  - Proposed External Elevations Plan numbered J3792-YMD-XX-ZZ-DR-A-3001 Rev P7;
  - Proposed Ground and First Floor Plans numbered J3792-YMD-01-00-DR-A-2001 Rev P10 and 2101 Rev P8;
  - Existing Ground Floor Plan numbered J3792-YMD-01-00-DR-A-2000 Rev P2;
  - Existing Elevations Plan numbered J3792-YMD-01-ZZ-DR-A-3000 Rev P2;
  - Existing Roof Plan numbered J3792-YMD-01-R-DR-A-2020 Rev P1;
  - Proposed Roof Plan numbered J3792-YMD-01-R-DR-A-2021 Rev P1;
  - Preliminary Bat Roost Assessment and Walkover Survey by Middlemarch Environmental dated February 2019, and;
  - Nocturnal Emergence Survey by Middlemarch Environmental dated May 2019.

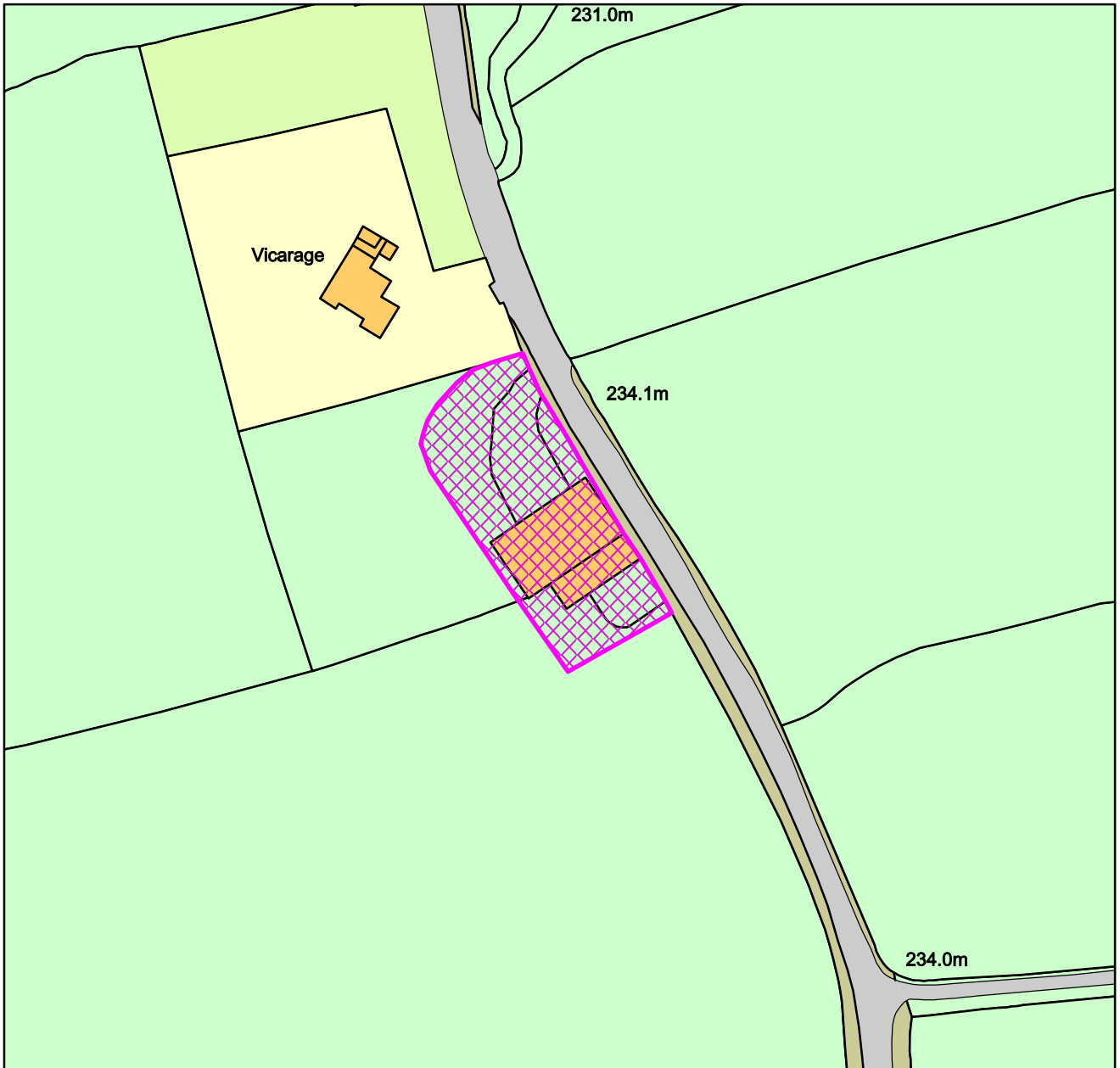
<b>APPLICATION NUMBER</b>		19/00042/FUL	
<b>SITE ADDRESS:</b>		Barn Adjacent to Old Vicarage, Ashbourne Road, Brassington, Derbyshire	
<b>DESCRIPTION OF DEVELOPMENT</b>		Conversion and extension of stone barn to form a dwelling and removal of a redundant agricultural building	
<b>CASE OFFICER</b>	J Baldwin	<b>APPLICANT</b>	Mr & Mrs Beardmore
<b>PARISH/TOWN</b>	Brassington	<b>AGENT</b>	Mr R Pigott
<b>WARD MEMBER(S)</b>	Cllr L Rose OBE	<b>DETERMINATION TARGET</b>	12/03/2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Called in by Cllr L Rose OBE	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	N/A

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>- Principle of development.</li> <li>- Impact upon character and appearance of the existing barn and the surrounding landscape.</li> <li>- Impact on amenity of neighbouring residents.</li> <li>- Impacts on heritage assets.</li> <li>- Impact on highway safety.</li> </ul>

<b>RECOMMENDATION</b>
Refusal

19/00042/FUL

Barn Adj. To Old Vicarage, Ashbourne Road, Brassington



Derbyshire Dales DC

1:1,250

Date: 30/05/2019

100019785

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Derbyshire Dales District Council,  
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk

## 1. THE SITE AND SURROUNDINGS

- 1.1 The site is located on the western side of Ashbourne Road to the south of Brassington. The site is currently occupied by a stone barn and a steel framed agricultural building. The site is accessed off Ashbourne Road to the north of the buildings into an existing yard area. The barn is located immediately adjacent to the highway and projects into the field to the west. There is a single neighbouring dwelling to the north of the site which is otherwise surrounded by open countryside.



## 2. DETAILS OF THE APPLICATION

- 2.1 Planning permission is sought for the extension and conversion of the existing stone barn to form a dwelling and for the removal of the existing steel framed cattle shed.

Following the removal of the steel framed building, a single storey extension would be constructed. The extension off the northern elevation would be accessed via a 1.2m x 4m glazed link and would be 8m (length) x 6.5m (width) x 5m (height). The western elevation of the extension would be entirely glazed, and a single roof light would be installed to the road facing roof slope. It is proposed to clad the extension in zinc, standing seam metal cladding.

The existing southern, northern, and eastern elevations of the stone barn would be largely unaltered, with a single conservation roof light being installed in the southern roof slope and a new window to be installed in an existing opening. To the western elevation, a large, triangular topped window would be installed.

It is proposed to utilise the existing access to the site. The dry stone wall to the south would be set back to improve emerging visibility.

## 3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan (2017)
  - S4: Development in the Countryside
  - PD1: Design and Place Making
  - PD2: Protecting the Historic Environment
  - PD5: Landscape Character
  - HC8: Conversion and Re-Use of Buildings for Residential Accommodation
  - HC19: Accessibility and Transport
2. National Planning Policy Framework (2019)
  - National Planning Practice Guidance
  - The Conversion of Farm Buildings – Supplementary Planning Document (2019)

## 4. RELEVANT PLANNING HISTORY:

None.

## 5. CONSULTATION RESPONSES

### Environmental Health (Derbyshire Dales)

5.1 No objection

### Derbyshire County Council (Highways)

5.2 No highway concerns – subject to conditions.

### Trees and Landscape Officer (Derbyshire Dales)

5.3 My current observations and recommendations regarding the proposals are:

#### **The proposals in the landscape**

1. The site is in a rural agricultural location and is overlooked from the immediately adjacent road.
2. The site is located in an area of high landscape sensitivity. The dwelling should be designed to assimilate into the local vernacular and the local environment and landscape as fully as possible through the use of traditional facing materials only (limestone rubble and reclaimed roof slates – not glass and cladding as proposed). Imperfect dry stone walls made from local limestone rubble and built to a height the same as nearby field walls should be the only boundary treatment.
3. Grasscrete may be more appropriate for use as an access track/parking area surfacing treatment.
4. I have made a recommendation relating to the relocation of the new part of the proposed building which I feel would create a more appropriate appearance.
5. The entrance to the site from the road is important in minimising its impact. I have recommended some ways to achieve this.
6. Specifications for soft landscaping should be submitted to DDDC for approval and subject to planning condition should consent be granted.

#### **Tree protection**

7. I have made recommendations describing how retained trees close to the site boundary should be protected during development works to prevent root damage/loss to ensure the trees remain healthy and stable.
8. The retained trees should be protected by a planning condition if the proposal is granted consent because they provide valuable amenity and are subject to a TPO.
9. Surfacing of the proposed access track should be engineered to be capable of resisting forces generated by potential tree root growth beneath.

### Derbyshire Wildlife Trust

5.4 An appropriate level of ecological survey work has been undertaken at the existing buildings. Small numbers of common pipistrelle bats and Natterer's bats were recorded roosting in the stone barn, an active swallow nest was also recorded, plus a pied wagtail nest in the agricultural building.

As stated in the Ecological Appraisal (Turnstone Ecology, 2018), a mitigation licence will be required from Natural England to proceed with works.

The mitigation detailed in the Ecological Appraisal appears potentially at odds with the drawing Elevations as Proposed (December, 2018). There are full height windows in gable ends and the use of two types of cladding which may make the incorporation of roosting features difficult. This should be reviewed prior to determination and confirmation of the mitigation should be provided. The proposed plans also do not appear to include the recommendations for a covered porch or car port to provide opportunity for a feeding roost and swallow nesting. This should be reviewed. Mitigation must safeguard the favourable conservation status of roosting bats (Habitat Regulations, 2018) and provide a net gain for biodiversity (NPPF, 2018).

Once this information has been provided, we would be happy to advise on appropriate planning conditions, which will include securing bat licensing and mitigation, along with nesting opportunities for birds.

#### Derbyshire County Council (Archaeologist)

- 5.5 The traditional stone barn which is proposed for conversion has an entry on the Derbyshire Historic Environment Record and is described as follows: *Extant 19th century outfarm. The outfarm is formed of a loose courtyard with one side of the yard formed of agricultural buildings. The site is in an isolated location. Large modern sheds have been identified on the site, and may have destroyed or obscured historic buildings. All the traditional buildings remain extant.*

Outfarms are a highly characteristic element of the wider Peak District's traditional farming history, being small, often isolated buildings, for housing stock and storing fodder.

The building was recorded as part of the Peak District National Park Historic Farmsteads Project, (2016) which was initiated in order to assess the resource of surviving traditional farm buildings across the wider Peak District. It also lies within an extensive area of ridge and furrow earthworks which are also part of the Derbyshire Historic Environment Record (DHER no 30649).

As part of the Peak District National Park Historic Farmsteads Project, guidance was produced for developers and their agents to inform sensitive and appropriate conversion of these buildings. This is outlined in the Farmstead Assessment Framework a copy of which is attached. We would recommend that the applicant be required to produce a site assessment as outlined in the section 3 of the document (pg 13). It is advised that this be undertaken by a suitably qualified Heritage professional (Chartered Institute of Archaeologist Registered organisation/practitioners are recommended). This requirement is in line with paragraph 189 of NPPF which requires developers to describe the significance of heritage assets which are to be affected by their proposals, and the impact of development on that significance. We should be consulted when this report is available.

## **6. REPRESENTATIONS RECEIVED**

- 6.1 No representations have been received in relation to this application.

## **7. OFFICER APPRAISAL**

The following material planning issues are relevant to this application:

- Principle of development
- Impact upon character and appearance of the existing barn and the surrounding landscape
- Impact on amenity of neighbouring residents
- Impacts on heritage assets
- Impact on highway safety.

### **7.1 Principle of Development**

The site is located outside of the Brassington settlement boundary, and accordingly the principle of development should be considered against Policy S4 of the Adopted Derbyshire Dales Local Plan (2017). Policy S4 lists a number of circumstances where residential development in what would otherwise be construed as unsustainable locations may be supported. One of the circumstances listed supports the conversion and re-use of buildings for new residential development in accordance with Policy HC8.



Policy HC8 of the Local Plan deals specifically with the 'conversion and re-use of buildings for residential accommodation'. This policy criterion can be broken down into four requirements of a development proposal:

- a) the building or group of buildings are of permanent and substantial construction;*
- b) the form, bulk and general design of the existing building or group of buildings make a positive contribution to the character and appearance of its surroundings;*
- c) the building or group of buildings can be converted without extensive alteration, rebuilding or extension;*
- d) the conversion does not have a detrimental impact upon the character and appearance of the building or group of buildings and its surroundings.*

A 'Structural Report and Appraisal' of the building has been submitted alongside this application which concludes that some remedial work including repointing and repairs to the roof, that the building would become stable and suitable for conversion for residential purposes. When considering the building as a whole the proposed works are not considered to be substantial with no major rebuilding work anticipated.

The existing historic barn is considered to make a significant contribution to the rural character of the site and its surrounding area. The more modern steel framed building which is to be removed is of no particular architectural or historical merit and its removal is not considered to be to the detriment of the character and appearance of the site.

The proposed conversion includes a metal clad extension to the northern elevation. Whilst policy HC8 seeks to resist conversion of existing buildings where the conversion requires extensive alteration, rebuilding or extension it is considered in this case, given the scale of the modern steel framed cattle shed which is to be removed, the 8m x 6.5m proposed extension is considered to be of a reasonable size and scale. Given its location and orientation on the site and the metal cladding it would retain the existing rural character of the site and surrounding area. In this regard, the extension is considered to be an acceptable addition to the stone barn.

Whilst the extension to the barn is not considered to result in harm to the character and appearance of the existing structure the proposed conversion includes the installation of a large, contemporary feature window to the western gable elevation which is considered to be harmful. The recently adopted Derbyshire Dales District Council Conversion of Farm Building SPD (2019) states that "A fundamental and important characteristic of farm buildings are the existing type, form, size, shape and detailing of door & window openings and the minimal number of door and window openings (i.e. the ratio of solid to openings) to the elevations" The existing stone barn includes only 4 openings which are all contained within the southern elevation. The Local Planning Authority are not opposed to the large, contemporary glazing which is contained within the western elevation of the extension however to remove such a significant amount of traditional barn wall from the currently blank gable for a non-traditional feature window which does not recognise the particular character of the barn is considered to be harmful to the character and appearance of this building. As such, the proposal would not comply with policy PD1 and HC8 of the Adopted Derbyshire Dales Local Plan (2017) or the Derbyshire Dales District Council Conversion of Farm Building SPD (2019).

## 7.2 Residential amenity

The site is largely surrounded by open countryside. Whilst there is a single neighbouring dwelling located to the north it is considered that the distance between the properties is such that there is unlikely to be any harm caused to the amenity of the occupants of this dwelling as a result of the proposed conversion or extension. The proposal is considered to comply with policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

## 7.3 Impact on heritage assets.

Whilst the site is located within an extensive area of ridge and furrow earthworks, the proposal would be contained within the area covered by the existing buildings on site. As a result there is not considered to be any harm caused to the historic land. The Local Planning Authority are satisfied that the proposed development would comply with policy PD2 of the Adopted Derbyshire Dales Local Plan (2017).

## 7.4 Impact on highway safety

The proposal has been assessed by the Local Highway Authority who have concluded that the proposal would not have any harmful impact on highway safety and subject to conditions would be acceptable.

## 7.5 Conclusion

The principle of both the conversion of the barn and the proposed extension is largely considered to be acceptable. There is not considered to be any harm to the amenity of neighbouring occupants or in relation to highway safety. The proposed extension is considered to be of an appropriate scale, form and design for the existing barn. It is however considered that the inclusion of such a large, contemporary window to the currently blank western gable elevation, removing a large area of traditional walling to the barn, would be harmful to its character and appearance and would conflict with the aims of policy S4, HC8 and PD1 of the Adopted Derbyshire Dales Local Plan (2017) and the Conversion of Farm Building SPD (2019).

The Local Planning Authority have during the application process suggested amendments to the scheme which would be considered acceptable however the applicants' wish for the scheme to be determined as submitted. As a result, a recommendation of refusal is made on this basis.

## 8. RECOMMENDATION

That planning permission be refused for the following reason:

The size, scale and design of the feature window to the blank western gable elevation of this traditional stone barn set within open countryside is considered to be wholly out of character with this vernacular barn thereby harming its character and appearance. As such, the proposed development would be contrary to the aims of Policies S4, PD1 and HC8 of the Adopted Derbyshire Dales Local Plan (2017) and the Conversion of Farm Buildings Supplementary Planning Document (2019).

## 9. NOTES TO APPLICANT:

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the

application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

This decision notice relates to the following documents received by the Local Planning Authority on 15/01/2019:

- Planning, Design and Access Statement
- Structural Report and Appraisal
- Ecological Survey Report
- 0001 (1 of 4) – Topographical Survey
- 0001 (2 of 4) – Topographical Survey
- 0001 (3 of 4) – Topographical Survey
- 0001 (4 of 4) – Measured Survey
- 2201-001 – Site Location Plan
- 2201-002 – Site Block Plan as Existing
- 2201-003 – Plans as Existing
- 2201-004A – Block Plan as Proposed
- 2201-005A – Floor Plan as Proposed
- 2201-006 – Roof Plan as Proposed
- 2201-007 – Elevations as Proposed
- 2201 – 3D view from road side

<b>APPLICATION NUMBER</b>		18/01430/OUT	
<b>SITE ADDRESS:</b>		Matlock Transport, Northwood Lane, Darley Dale	
<b>DESCRIPTION OF DEVELOPMENT</b>		Residential development of up to 12 dwellings (outline)	
<b>CASE OFFICER</b>	Mr. G. A. Griffiths	<b>APPLICANT</b>	Mr. Lowe
<b>PARISH</b>	Northwood And Tinkersley	<b>AGENT</b>	Planning and Design Ltd.
<b>WARD MEMBERS</b>	Cllr. M. Buckler	<b>DETERMINATION TARGET</b>	12 <sup>th</sup> April 2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Major Application	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To assess the existing employment and future employment potential of the site, the impact on the character and appearance of the site and its surroundings, land drainage, tree protection and ecology matters.

**MATERIAL PLANNING ISSUES**

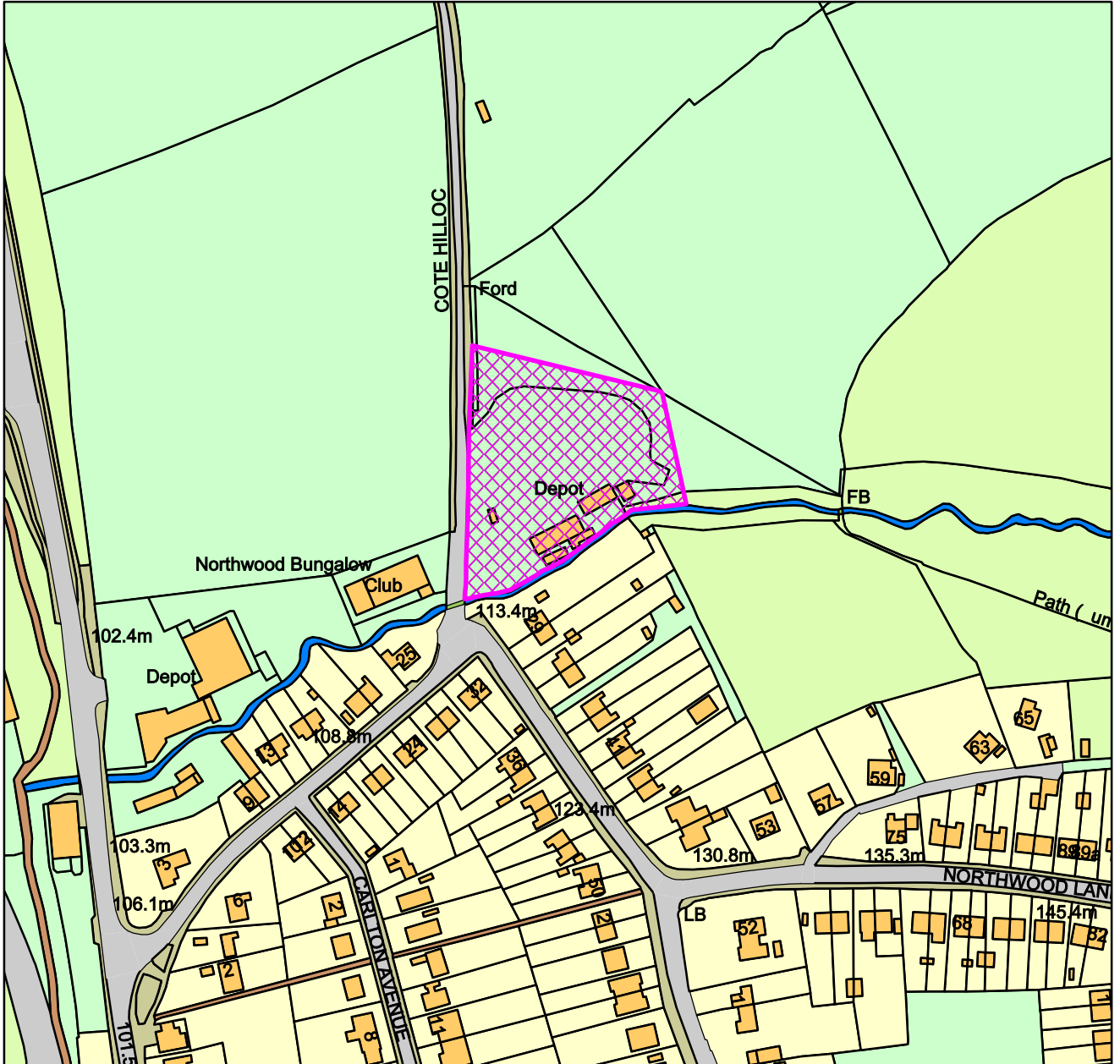
- Background
- Principle of the development
- Impact on the character and appearance of the area
- Housing type mix
- Affordable housing provision
- Highway safety
- Public rights of way
- Land drainage
- Site contamination
- Impact on trees
- Impact on wildlife
- Impact on residential amenity
- Provision of open space
- Primary care services provision

**RECOMMENDATION**

Approval

18/01430/OUT

Matlock Transport, Northwood Lane, Darley Dale



Derbyshire Dales DC

1:2,500

Date: 30/05/2019

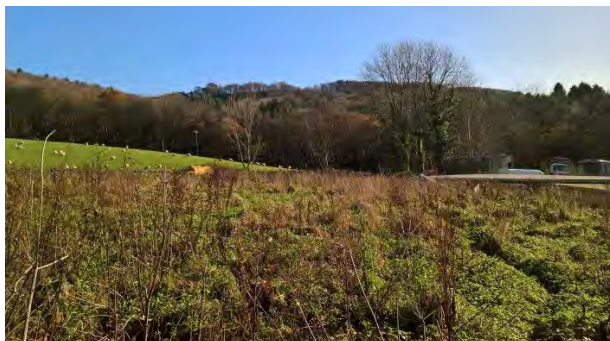
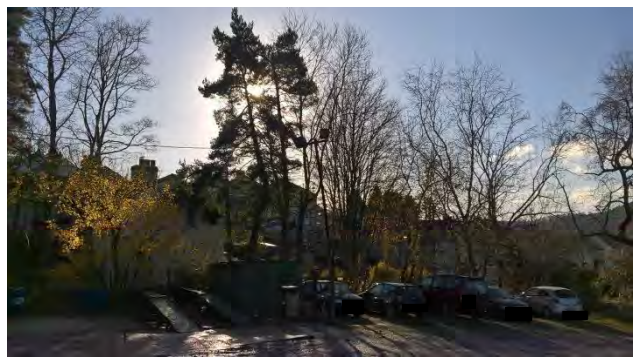
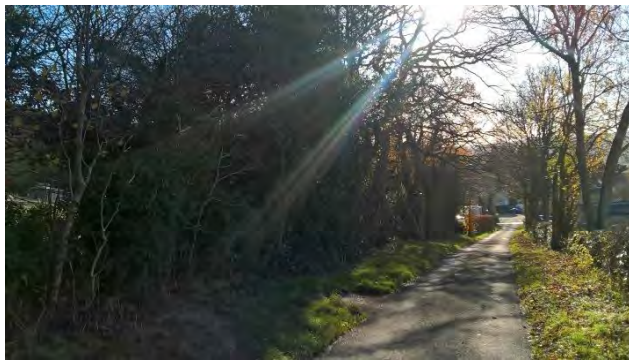
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Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk



# 1. THE SITE AND SURROUNDINGS

- 1.1 The site is a haulage depot sited north of the junction of Northwood Lane and Cote Hilloc. The site is surrounded by open countryside to the north, west and east. To the south, the site abuts the settlement of Northwood and is within the Settlement Boundary.
- 1.2 The western boundary with Cote Hilloc is a high and dense hedgerow which extends along the boundary as far as the depot entrance in the south west. The northern boundary of the application site is defined by the edge of the hardstanding. Beyond this is a field with a public footpath running diagonally across it. The field itself extends further to the north where the boundary is marked by a stone wall that also wraps around the eastern side. To the south the boundary is with a brook. The trees along the western and southern boundaries are subject to a tree preservation order.



## 2. DETAILS OF THE APPLICATION

- 2.1 Outline planning permission, with all matters reserved, is sought to demolish the existing buildings and to erect up to 12 dwellings on the site, three of which would be affordable dwellings.
- 2.2 The application has been submitted further to the refusal of outline planning application 17/01117/OUT. In their submission, the applicants have set out responses to the reasons why the previous scheme was rejected. In order to set a context for this, the reasons for refusal were as follows:
- 1. The site is an existing employment site and the proposals fail to demonstrate that an employment use of the site is no longer suitable or commercially viable. As such, the proposals are contrary to Policies S1 and EC3 of the Adopted Derbyshire Dales Local Plan (2017).*
  - 2. Insufficient information has been submitted to demonstrate that residential development of the site cannot be for more than 10 dwellings which, in such a case, would be likely to require the provision of a more varied housing mix to address current and future demographic trends and include on-site affordable housing provision to meet the objectively assessed needs for such in the District. As such, the proposal fails to comply with Policies S1, HC4 and HC11 of the Adopted Derbyshire Dales Local Plan (2017).*
  - 3. Insufficient information has been submitted to demonstrate that residential development of the site cannot be for more than 10 dwellings which, in such a case, would require the provision of public open space and facilities for, or improvements to, children's play provision in Northwood. As such, the proposal fails to comply with Policy HC14 of the Adopted Derbyshire Dales Local Plan (2017).*
  - 4. Insufficient information has been submitted to demonstrate that adequate site drainage can be provided for the proposed development and that due consideration has been given to the space required for on-site surface water storage. As such, the proposal fails to comply with Policies S1, PD8 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).*
  - 5. In the absence of an arboricultural survey and a plan detailing the site development parameters, to include protection areas for trees as a result of built form and highway safety requirements, the applicant has failed to demonstrate that the development will not have the potential to impact on protected trees along the western and southern boundaries of the application site. As such, the proposal fails to comply with Policies S1, S3, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).*
  - 6. Insufficient information has been submitted to demonstrate that the proposed development will not cause harm to protected species. As such, the proposal fails to comply with Policies S1 and PD3 of the Adopted Derbyshire Dales Local Plan (2017) and with Government guidance contained in the National Planning Policy Framework.*

The applicant's submission in relation to the above is as follows.

### Reason 1

- 2.3 In terms of the loss of employment potential of the site, the applicant advises that he has reduced the operations from the site from 40 vehicles some 10 years ago to currently 25 vehicles. This also concentrates now on general haulage with larger vehicles; in the past the company tended to have smaller vehicles, including tipper lorries, servicing the local

quarries and local industry such as Firth Rixon, Permanite and Enthovens. The current lorry drivers do not live locally and spend a lot of their time stopping overnight, as they go from one location to another across the UK. They only return when not working or when the lorry is in need of maintenance. As such, unlike other employment sites, the applicant's business does not have many local employees other than the three mechanical staff working at the site, which is therefore not a significant employment site at present. If planning permission is granted, it is proposed that the haulage yard would be relocated to the Riversdale site off the A6 (close to Firth Rixon).

- 2.4 The applicant advises that the re-use of the site as a haulage yard has obvious shortcomings with regards to accessing large lorries along Northwood Lane and there would be a benefit to local residents if the use ceased. The sloping site also makes vehicle manoeuvres difficult at times and it is considered unlikely that another haulage company would wish to operate from the site with such constraints. The buildings on the site are of poor quality which are not easily convertible and, given their size, present limited opportunities for re-use. The applicant refers to the undesirable use of the site for retail purposes.
- 2.5 In terms of B1 Uses (offices, research and development light industry and storage and distribution), this would require the redevelopment of the site with new buildings, either as a speculative development or in line with an identified users requirements. Either way, the applicant advises that this will require significant investment in services and infrastructure (including roads and drainage) to make it suitable for business use.
- 2.6 Given the topography of the site, and areas designated for flood risk and arboricultural protection, the applicant considers it would be very difficult to develop business units of sufficient size to be commercially viable. The applicant also considers that B Class uses would normally wish to locate within proximity to other such uses rather than be stand alone. Uses for heavy industry are discounted given the potential impacts on the highway and local residents' amenity.
- 2.7 In addition to the above, the applicant has submitted a detailed Employment Site Feasibility Assessment by a property consultant undertaken in March 2019. They have confirmed that if the property was sold or to let for a continued haulage yard, or B1(c) business/industrial use, the main constraint would be its location, due to being accessed via residential streets.
- 2.8 It is advised that, in general terms, demand for industrial property across Derbyshire has remained firm over the last 3-4 years, albeit there has been a slight tail off recently due to uncertainty around Brexit. In terms of this site in particular, this is considered a sub market site along the A6 corridor in effect running from Belper through Matlock and Darley Dale. Smaller units in these towns will let and sell and most activity is generally at the smaller end of the spectrum of size, from around 1,000 to 5,000ft<sup>2</sup>. However, they need to be accessible from the A6, easy to locate and with clear access for commercial vehicles. Whilst in theory the subject property is close to the A6, the access route would be a significant deterrent. This applies to both a new redevelopment scheme and continued haulage site use.
- 2.9 From their marketing of sites in the region, the consultants advise that the hours of operation and accessibility are an influencing factor in site selection by prospective occupiers. Given the access through a residential area, and with cars parked on the streets, they expect it would prove difficult to secure another similar operator. It is also possible that any planning application for change of use or expansion of the existing buildings could attract a limitation on operating hours by the Local Planning Authority.



- 2.10 It is advised that a site of this size, in this area, would lend itself best to development of B1 business units and a usual format would be the construction of a terrace, or terraces, which are subdivided to provide a range of individual units between typically 1,000 sq ft to 5,000 sq ft. The applicant's agent has drawn up an indicative scheme, which shows a total of 844 sq m (9,085 sq ft) of space. With a build cost at approximately £70 per sq ft for a basic building, the consultant estimates total build costs, with professional fees, would be some £81 per sq ft. If the cost of land is added, which is typically £150,000 to £175,000 per acre for a plot of this size in this area, with design fees and finance, then the sale price which would need to be achieved to break even would have to be over £95 per sq ft and that assumes there are no abnormal costs. With a sloping site the costs will increase and the site density decrease. It is advised that a commercial developer will typically operate on a profit level of 20% based on a speculative scheme and to achieve that level would mean securing a gross development value of circa £1.1m which is a sale rate of £121 per sq ft; this is above the current market level for this location.
- 2.11 For simplicity, the appraisal also assumes that all the units are sold upon completion of the buildings. In practice, they will be sold over a period of months which increases the finance and holding costs for the developer. To this end, the consultant considers the viability for a small unit development scheme in this region is borderline and only really works in higher value locations such as major conurbations or well-located road interchanges. Given the above, the consultant's concerns would be the sloping nature of the site and accessibility which they consider would deter potential occupiers both in terms of their own use and when considering resale value at some point in the future.

#### Reason 2

- 2.12 The applicant has now submitted proposals for 12 dwellings on the site of which 3 would be affordable houses, with a financial contribution made on the partial unit based on the following calculation:

$$12 \times 30\% = 3.6$$

$$\text{Therefore } 0.6 \text{ of a dwellinghouse} \times \text{£}25450 = \text{£}15,270.$$

The financial contribution would be secured by a Section 106 Agreement prior to the commencement of the development.

#### Reason 3

- 2.13 The applicant is willing to provide for play space provision. However, given the developable area of the site being constrained, it is considered more advantageous to take a financial contribution towards upgrading and maintaining the existing recreation ground off The Avenue within Northwood some 400m away.

#### Reason 4

- 2.14 The applicant has submitted a Flood Risk Assessment (FRA).

#### Reasons 5

- 2.15 The applicant has submitted an arboricultural survey.

#### Reason 6

- 2.17 The applicant has submitted a preliminary Ecology Report and an Activity Report for Bats with respect to protected species.
- 2.18 The applicant states that provision will be made to retain the public footpath on the site, broadly on its current alignment, albeit the definitive line of this appears to be currently constrained by the existing buildings on the site.

### **3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

- 3.1 Adopted Derbyshire Dales Local Plan (2017)
- S1 Sustainable Development Principles
  - S2 Settlement Hierarchy
  - S3 Development within Defined Settlement Boundaries
  - S7 Matlock/Wirksworth/Darley Dale Development Area Strategy
  - PD1 Design and Place Making
  - PD2 Protecting the Historic Environment
  - PD3 Biodiversity and the Natural Environment
  - PD5 Landscape Character
  - PD6 Trees, Hedgerows and Woodlands
  - PD7 Climate Change
  - PD8 Flood Risk Management and Water Quality
  - PD9 Pollution Control and Unstable Land
  - HC1 Location of Housing Development
  - HC3 Self-Build Housing Provision
  - HC4 Affordable Housing Provision
  - HC11 Housing Mix and Type
  - HC14 Open Space, Sports and Recreation Facilities
  - HC15 Community Facilities and Services
  - HC19 Accessibility and Transport
  - HC20 Managing Travel Demand
  - HC21 Car Parking Standards
  - EC1 New and Existing Employment Development
  - EC3 Existing Employment Land and Premises

### **4. RELEVANT PLANNING HISTORY**

- |              |  |
|--------------|--|
| 17/01117/OUT | Residential development of up to 10 dwellings (outline) – Refused  |
| 16/00949/FUL | Extension to provide HGV maintenance workshop – Granted  |
| 13/00231/FUL | Change of use of agricultural land to create extension to haulage operator's yard – Refused – Appeal Dismissed |
| 01/06/0400   | Extension to curtilage of haulage depot – Refused  |
| 0496/0272    | Residential development (Outline) - Renewal of planning permission WED/0493/0243 – Granted                     |
| 0493/0243    | Residential development - outline (renewal of WED/0291/0129) – Granted   |
| 0291/0129    | Residential development (outline) – Granted  |
| 1090/0913    | Residential development - 20 houses (outline) – Refused  |
| 0290/0110    | 20 dwellings (outline) – Refused   |
| 1088/0775    | Change of use of agricultural land to car park – Refused.  |

## 5. CONSULTATION RESPONSES

### Parish Council

- 5.1
- in favour of housing on the site
  - disappointment that there were no affordable family homes and not more affordable housing
  - confusion as to why a pond was included and who will maintain this and the public open space and footpath
  - concern about the statement that the land was not contaminated
  - do the 4 bedroomed houses have two outside parking spaces or is one the garage?
  - where will visitors park as neighbouring roads cannot support this?
  - will the accessible house be fully accessible?

### Environment Agency

- 5.2
- no objection to the proposal
  - note that no means of foul drainage has been detailed and would expect to see these at the reserved matters stage
  - set out the hierarchy of drainage options
  - note that the granting of planning permission does not guarantee a granting of an Environmental Permit.

### Land Drainage Authority (Derbyshire County Council)

- 5.3
- applicant is proposing to discharge surface water to an ordinary watercourse which borders the site at a discharge rate no greater than 42.5 l/s - will require the applicant to demonstrate at the detailed design stage that the proposed destination for surface water accords with the hierarchy in paragraph 80 of Planning Practice Guidance
  - propose to attenuate surface water up to the 1 in 100 event, with this storage being provided by an attenuation pond to the west of the development – require evidence at the detailed design stage that the drainage network and the proposed attenuation features are sized appropriately to manage the surface water on site
  - welcomes the 40% climate change sensitivity test but would also expect a 10% allowance for Urban Creep to be included at the detailed design stage
  - will require a management and maintenance plan at the detailed design stage, demonstrating the maintenance requirement for the drainage infrastructure on site, details of the party appointed to be responsible to manage and maintain the infrastructure for the lifetime of the development and an alternative should the maintenance requirements not be met.

### Local Highway Authority (Derbyshire County Council)

- 5.4
- no objection subject to conditions.

### Planning Policy (DDDC)

- 5.5
- evidence from the Employment Site Feasibility Appraisal suggests that the redevelopment of the site for employment development looks unviable, even if the cost of land were excluded
  - a number of figures in the document which would need to be verified e.g. BCIS Build Costs before accepting that the redevelopment for employment purposes is unviable.
  - if that is the case, it would be appropriate to consider alternative uses for the site.

### Economic Development (DDDC)

- 5.6
- generally agree with applicant's assessment of demand which indicates if decent quality B1c units were built they would be leased at £6 per sqft
  - accept access is not great but for B1c use, predominantly vans, it is acceptable (especially considering have been running articulated lorries from the site for the last 15-20 years)

- at lower build costs (i.e. £60sqft and £65sqft) plus fees, site costs and developer profit, agree it is hard to make it work on a purely commercial basis
- note the site density is low and, with a lower build cost and increase in floorspace, viability improves but as indicated, allowing for additional finance and abnormalities, is likely to bring profit below acceptable levels/result in marginal viability
- if the site was openly marketed they may get find a company interested in building their own premises but the limitations of the policy would potentially make it challenging to force them to adhere to the Council's requirements with regard to existing B Class employment land.

#### Strategic Planning (Derbyshire County Council)

- 5.7
- have sufficient capacity to accommodate children in local schools
  - advise on broadband connectivity and that this be attached as a footnote to any planning permission.

#### North Derbyshire CCG

- 5.8
- initially submitted a calculation based on the need to address the impact of the residents of the site in terms of the number of additional consultations
  - requested a financial contribution of £4,565 to support primary care services in the area at Darley Dale Medical Centre
  - have subsequently withdrawn the request given that the medical centre is already funded.

#### Derbyshire Wildlife Trust

- 5.9
- ecological survey work is acceptable
  - request conditions with regard to a sensitive lighting strategy and a Landscape and Ecological Management Plan (LEMP)

#### Arboriculture and Landscape Officer

- 5.10
- comments on the impacts on protected trees and trees within and round the site
  - landscaping proposals should be appropriate to the prevailing character
  - design and layout of the buildings should be sensitive to where within the landscape's topography the site is located so that the development is not visually intrusive
  - buildings and their settings should reflect the vernacular style typical of the landscape type, for example through the use of appropriate facing materials, use of dry stone walls made from local stone, and provision of new hedgerows composed of a range of species typical of this landscape type and provide shelter and food sources for local wildlife
  - drystone walls and hedgerows would be more appropriate than generic timber panel/board and batten garden fencing
  - proposed dwellings would be located in the same position as the existing haulage maintenance yard and not on a green field site
  - proposals would not be more significantly harmful than the existing yard in terms of landscape issues assuming that the buildings are designed with sympathetic layout, style and finish so they assimilate into the environment/landscape and that the best trees are retained and public green spaces provide good amenity
  - grassed areas around/within the development should include native wild flower mix and seasonal bulbs to support local biodiversity and seasonal interest
  - picnic benches, etc. would encourage people to spend time around the attenuation pond and retained old trees by opening up more potential uses of this green space
  - a public footpath runs through the site into the field beyond - an appropriate route through the development should be provided

#### Forestry Commission

- 5.11 - within 70m of an ancient woodland and need to assess impact having regard to standing advice.

#### Peak and Northern Footpaths Society

- 5.12 - no objection provided the full width of Footpath No. 1 Northwood and Tinkersley remains unobstructed at all times unless a temporary closure is obtained
- it looks as though this path might be widened and possibly surfaced – if so, the County Council's Rights of Way Officers must be fully consulted and authorise any changes.

#### Environmental Health (DDDC)

- 5.13 - no objections in principle
- due to the previous uses of the site, it is very likely that areas of the site will be contaminated with various organic and non-organic contaminants
  - a site condition survey will be required from the applicant of the whole site of proposed use.

## **6. REPRESENTATIONS RECEIVED**

- 6.1 None.

## **7. OFFICER APPRAISAL**

### Background

- 7.1 There is some history to this site with respect to applications for its residential development. Outline planning permissions have been granted to the applicant in the past for residential developments where it was advised this would be in the form of twelve dwellinghouses (see outline planning permission 0291/0129 and subsequent renewals 0493/0243 and 0496/0272). These permissions have now lapsed.
- 7.2 Post these decisions, the previous Local Plan (2005) did not include Northwood in a Settlement Framework Boundary and there was therefore a general presumption against open market housing development. However, the Adopted Local Plan (2017) now includes the application site within a Settlement Boundary.
- 7.3 In 2017, an outline planning application was submitted for up to 10 residential units, which was refused for the reasons set out in the 'Details of the Application' above, which this current application now seeks to address.

### Principle of Development

- 7.4 It has to be noted that the applicant has challenged the policy basis reason 1 for the above refusal of outline planning permission. Policy EC3 was cited in this reason but this Policy refers specifically to those uses within Use Classes B1, B2 and B8. The applicant rightly states that the current use of the site is within none of these Use Classes and is deemed to be Sui Generis (essentially meaning in a class of its own). Officers have conceded to this point. On this basis, the applicant considers that there is no presumption against the redevelopment of such sites for other development such as dwellinghouses.
- 7.5 Notwithstanding this, one of the aims of the District Council is to ensure that it meets the employment needs of the District as advised in Policy EC1. This policy states that the District Council will protect existing employment sites and premises in order to ensure that development would not result in a loss of land or buildings from employment use; unless the proposals accord with Policy EC3. To this end, whilst the applicant has not marketed the site as a going concern, or as a potential employment site, they have provided further

information to support their assertion that the site is no longer reasonably required or likely to be developed for employment use.

Officers have considered the submission, and evidence base of the applicant, and it is concluded that the site is unlikely to be brought forward for further commercial development and appears unnecessary to sustain the existing business operation. To this end, the principle of appropriate redevelopment is accepted.

#### Impact on the Character and Appearance of the Area

- 7.6 It is considered that the redevelopment of the site for dwellinghouses would be acceptable in terms of character and appearance, as such a development would replace the visual impact of the haulage yard, its buildings and the storage of trucks and their trailers. Residential development, subject to acceptable design, scale, layout and landscaping provision/retention, would also sit comfortably with the existing residential development of Northwood in this locality. It should be noted that outline planning permission has also been granted recently for the demolition of the former social club, on the opposite side of Cote Hilloc to the haulage yard access, for replacement by dwellings. However, it is considered that the layout detailed in the indicative drawing of the dwellinghouses will need to be amended to meet with the constraints of the site in terms of proximity to the trees.
- 7.7 The site is also open to close views from the public footpaths running through and close by the site, and there are more distant views from across the valley to the west from the Peak District National Park which give an appreciation of this site in the context of the open countryside and the settlement. In its current use and form, the site is viewed as being an intervention in the clear residential character and appearance of the settlement to the south and the open countryside which otherwise largely frames the site on the north, east and west boundaries and it is considered the development should respond accordingly.
- 7.8 It is considered that residential development would not be more harmful than the existing yard, in terms of landscape issues, assuming that the buildings are designed with sympathetic layout, style and finish so they assimilate into the environment/landscape and that the best trees are retained and public, green spaces provide good amenity.

#### Housing Type Mix

- 7.9 The proposal sets out an indicative layout for up to 12 dwellinghouses. Policy HC11: Housing Mix and Type, requires that residential developments of eleven or more dwellings meet a specified mix, with the greater percentage being two and three bedroomed house types and this will need to be set as a condition of any outline planning permission, if granted, to inform the reserved matters application.

#### Affordable Housing Provision

- 7.10 The provision of three affordable dwellings on the site, with an off-site contribution based on 60% of a unit (£15, 270) will be required in accordance with Policy HC4 of the Adopted Local Plan (2017). This will need to be secured with a Section 106 legal agreement on the grant of outline planning permission.

#### Impact on Highway Safety

- 7.11 The Local Highway Authority has advised that the current proposal, whilst in outline form with all matters reserved, illustrates a significant access improvement can be made with setting back fronting vegetation to achieve 2.4m x 33m emerging visibility sightlines in both directions. The indicative access driveway is sufficient to allow 2-way traffic with a separate pedestrian margin being included. The indicative layout plan also illustrates how 12 dwellings can be sited, clear of adequate parking and turning areas.

7.12 However, as the application is outline with all matters reserved, no detailed comments are being provided at this stage with regards to the road layout within the site. Should the applicant propose to have the access road adopted by the Local Highway Authority, any future detailed layout should accord with current design guidance within Manual for Streets and Delivering Streets and Places 2017. In the meantime, conditions are required with respect to storage of plant, equipment, etc. during construction, provision of wheel cleaning facilities, compliance with the Manual for Streets, visibility splays, gradients, surface water drainage, surfacing of the highway, provision of parking and manoeuvring space and provision for bin storage and collection,

#### Public Rights of Way

7.13 It is noted that there is an existing public right of way running through the site and it is advised that the applicant should discuss any detailed proposals for the redevelopment of the site with the County Council's Public Rights of Way team prior to any reserved matters/full planning application being submitted. This may also be a constraint on how development would be provided on the site.

#### Land Drainage

7.14 This has been considered by the Lead Local Flood Authority and the Environment Agency. Whilst there are no in principle objections to the proposals, a detailed drainage scheme will have to be submitted with the reserved matters, and as a condition of the outline planning application, to be assessed for discharge by the above statutory consultees.

#### Site Contamination

7.15 The proposals have been considered by the District Council's Environmental Health Section who have advised that, due to the previous uses of the site, it is very likely that areas of the site will be contaminated with various organic and non-organic contaminants. Therefore, a site condition survey will be required from the applicant of the whole site.

#### Trees and Landscaping

7.16 The site is bounded by a belt of trees along Cote Hilloc which are group or individually protected by tree preservation orders (ref: DDDC/TPO/028/G2, G3, G4, T16, T17 and T26). To the south of the site, along the watercourse, there is a further group of protected trees (ref: DDDC/TPO/028/W1).

7.17 The proposals have been considered by the District Council' Arboriculture and Landscape Officer. The applicant's tree survey details the existing trees on the site and highlights the presence of two old, protected oak trees (T1 and T3) (DDDC Tree Preservation Order 028). These display 'veteran' features, meaning that they are particularly valuable ecological features and should only be removed or pruned under wholly exceptional circumstances and should also be given special protection measures to ensure they suffer no ill effects as a result of the development over and above the normal tree protection measures described in BS5837. It is advised that an experienced arboricultural consultant should be consulted during the design phase to ensure these trees are properly considered.

7.18 There are several other particularly valuable mature trees located within a few metres of the site boundary along the verge of Cote Hilloc Lane, some of which should also be considered veteran trees and afforded special protection to the same extent as those veteran trees located within the site; these should be included in an additional survey and all further arboricultural plans and documents. The beech hedge along the site boundary with Cote Hilloc Lane is rather fine and should be retained and incorporated into the design of the development.

7.19 A Tree Constraints Plan (TCP) has not been submitted with the application and this is necessary in order to inform the layout of the site at the design stage because development should not occur within the Root Protection Areas (RPAs) of retained trees. A TCP and a Tree Removals/Retention Plan (TRRP) will need to be submitted with the

reserved matters application which satisfies the guidelines provided by BS5837:2012. The TRRP should identify and locate the trees and hedgerows which would need to be removed and those which would be retained.

- 7.20 Information regarding potential shading will need to be submitted for consideration before a decision can be made regarding the detailed proposals. The applicant should also confirm that no potential impacts upon ancient woodland or veteran trees are foreseeable as a result of the detailed proposals. Conditions should be applied if outline planning permission is granted to require that all the existing trees on the site, and forming its boundaries, are retained to provide amenity for the development and protect the ecological value of the area.

#### Impact on Wildlife

- 7.21 Derbyshire Wildlife Trust has considered the proposals and advises that sufficient ecological survey work has been undertaken to determine the application. The proposals retain trees identified with bat roost potential and other trees and woodland around the site perimeter. This is particularly welcomed by the Trust. As it appears that there will be public open space around most of the perimeter, a sensitive lighting strategy will be required to ensure no excessive light spill to the woodland edge and trees. Enhancements can also be secured through a well-designed Landscape and Ecological Management Plan (LEMP) and the above can be secured as conditions on any grant of outline planning permission.

#### Impact on Neighbours' Amenity

- 7.22 It is considered that the development can be provided without detriment to the amenity of neighbouring residents and that the redevelopment of the site could have some benefits with regard to a potential reduction in noise levels and disturbance that may be attributed to the haulage use of the site.

#### Provision of Play Space

- 7.23 The site is rather constrained in its developable area and a meaningful play area may be difficult to provide on site. The District Council's Parks and Streetscene Manager has advised that a financial contribution would be supported to upgrade facilities at the recreation ground and that a sum of £6,000 would be expected.

#### Primary Care Services Provision

- 7.24 North Derbyshire CCG have submitted a calculation based on the need to address the impact of the residents of the site in terms of the number of additional consultations. To this end, a financial contribution of £4,565 was requested to support primary care services in the area at Darley Dale Medical Centre.
- 7.25 Officers have raised with the CCG whether these monies can be reasonably secured for the infrastructure project identified. The medical centre was granted planning permission in October 2016 and has been under construction since 2017/2018. To this end, the monies to fund the development appear to have been secured for some time and part of the design of the building, with extensive rendered elements, was advised to be required to bring the development within budget. This has been advised to the CCG who have agreed to withdraw their request.

#### Conclusion

- 7.26 Whilst the site is currently used for commercial purposes, and provides employment, this is likely to be absorbed with the relocation of the premises to the other site in the applicant's control near to Firth Rixon off the A6. It is considered the developable potential for commercial development is limited and that the applicant has submitted adequate information to justify the change of use from a haulage site to a residential site which is





detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of the reserved matters or full planning permission being granted, to comply with Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

5. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 of the planning practice guidance. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:
  - i) into the ground (infiltration);
  - ii) to a surface water body;
  - iii) to a surface water sewer, highway drain, or another drainage system; and
  - iv) to a combined sewer.

Reason:

To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options to comply with Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

6. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority before the commencement of any works which would lead to increased surface water run-off from site during the construction phase.

Reason:

To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development to comply with Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

7. Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats. This should provide details of the type of lighting and any mitigating features such as shields, hoods, timers etc. A plan showing lux levels of light spill around the application area should be included and guidelines can be found in Bats and Lighting in the UK (BCT, 2009). Such approved measures shall be implemented in full prior to the occupation of the will be implemented in full.

Reason:

To safeguard protected species to comply with Policies S1 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

8. A landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to building works commencing above foundation level. The LEMP should combine both the ecology and landscape disciplines and include the following:
  - a) description and evaluation of features to be managed;
  - b) ecological features, trends and constraints on site that might influence management;

- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives;
- e) prescriptions for management actions;
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) details of the body or organization responsible for implementation of the plan;
- h) ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the LEMP are not being met; and
- i) locations of bat boxes, bird boxes, hedgehog holes and habitat piles (including specifications/installation guidance/numbers).

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason:

To safeguard protected species and to secure biodiversity enhancements to comply with Policies S1 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

9. The application for the reserved matters approval of siting of buildings on this site shall include:
- a) a tree survey - the results of a tree survey (according to sections 4.4 and 4.5 BS5837:2012) to include all existing trees on and within 15m of the site;
  - b) Tree constraints plans - Tree locations, category grading, canopy spread and root protection areas (calculated according to section 4.6 BS5837:2012) for all existing trees should be plotted onto two accurate site survey plans; the first should show the existing and the second should show the proposed;
  - c) an arboricultural impact assessment – according to section 5.4 BS5837:2012 which should present an evaluation of the impact of the proposals of the existing trees; and
  - d) Tree removals plan - Tree locations, category grading, canopy spread and root protection areas (calculated according to section 4.6 BS5837:2012) for all existing trees should be plotted onto an accurate site survey plan showing the proposed. The trees which will need to be removed to facilitate the proposals should be indicated using different symbols to the trees for retention.

Reason

To ensure an accurate assessment of the effect of the development on the trees and in the interests of visual amenity and biodiversity in accordance with Policies S1, S3, PD1 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

10. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS5837:2012, including a tree protection plan (TPP), and a site specific arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. Specific issues to be dealt with in the TPP and AMS are:
- a) the location and installation methods of services/utilities/drainage;
  - b) methods of demolition within the root protection area (RPA as defined in BS5837: 2012) of the retained trees;
  - c) details of construction within the RPA of retained trees or that may impact on the retained trees;
  - d) a full specification for the installation of boundary treatment works;

- e) a full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of their areas to be constructed using a no-dig specification within the RPAs of retained trees. Details shall include relevant cross-sections;
- f) detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within RPAs is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses;
- g) a specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing relative to the retained trees;
- h) a specification for scaffolding and ground protection within RPAs where it is not possible to exclude all activity from RPAs;
- i) examples of signage to be affixed to tree protection fencing that clearly identifies the enclosed area as a prohibited area out of bounds for all activities and that the fencing must not be moved;
- j) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires;
- k) methodology and detailed assessment of root pruning;
- l) arboricultural supervision and inspection by a suitably qualified tree specialist;
- m) reporting of inspection and supervision;
- n) methods to improve the rooting environment for retained and proposed trees and landscaping; and
- o) veteran and ancient tree protection and management.

The development thereafter shall be implemented in strict accordance with the approved details.

Reason:

To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with section 197 of the Town and Country Planning Act 1990 and to comply with Policies S1, S3, PD1 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

11. Before any clearance, demolition or construction work begins, a pre-commencement meeting shall be held on site and attended by the developer's appointed arboricultural consultant, the site manager and a representative from the Local Planning Authority, to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved TPP. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.

Reason:

To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with section 197 of the Town and Country Planning Act 1990 and to comply with Policies S1, S3, PD1 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

12. Prior to the commencement of the development hereby approved (including all preparatory work), details of all proposed Access Facilitation Pruning (see

BS5837:2012 for definition) shall be submitted to and approved in writing by the Local Planning Authority. The approved tree pruning works shall be carried out in accordance with BS3998:2010.

Reason

To satisfy the Local Planning that any irreversible damage to retained trees will be avoided pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality and to comply with Policies S1, S3, PD1, and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

13. Prior to the commencement of the development hereby approved (including any ground clearance, tree works, demolition and construction), details of all tree protection monitoring and site supervision by a suitably qualified tree specialist, to ensure compliance with the agreed AMS and TPP, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To satisfy the Local Planning Authority that the trees to be retained will not be damaged during development works and to ensure that, as far as is possible, the work is carried out in accordance with the approved details pursuant to section 197 of the Town and Country Planning Act 1990 and to comply with Policies S1, S3, PD1, and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

14. The details of landscaping to be submitted under Condition 2 shall include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All landscaping shall be carried out in accordance with those details and at those times. Any proposed trees or plants which, which within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason:

To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to provide ecological, environmental and bio-diversity benefits, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality and to comply with Policies S1, S3, PD1, and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

15. No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner, at any time, during the development and thereafter other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the Local Planning Authority.

Reason:

Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality and to comply with Policies S1, S3, PD1, and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

16. Throughout the construction phase, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason:

In the interests of highway safety.

17. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason:

In the interests of highway safety.

18. Notwithstanding the submitted information a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government and the Delivering Streets and Places 2017.

Reason:

In the interests of highway safety.

19. Prior to occupation of the first dwelling the sites existing vehicular access to Cote Hilloc shall be modified and provided with a northern visibility sightline extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access for a distance of 33 metres, and a 2.4m parallel visibility sightline to the south across the frontage to Cote Hilloc controlled by the applicant, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason:

In the interests of highway safety.

20. No development shall take place until construction details of the residential estate road(s) and footway(s) (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of highway safety.

21. The carriageway(s) of the proposed estate road(s) shall be constructed in accordance with Condition No. 12 above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road(s). The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the

existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of highway safety.

22. No dwelling shall be occupied until details of the proposed parking and manoeuvring areas within the site have been submitted to, and approved in writing, by the Local Planning Authority. These facilities shall thereafter be retained for use at all times.

Reason:

To ensure the provision of adequate off-street parking in the interests of highway safety to comply with Policy H21 of the Adopted Derbyshire Dales Local Plan (2017).

23. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

Reason:

In the interests of highway safety.

24. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced and submitted in electronic format. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:-

- i) a survey of the extent, scale and nature of contamination;
- ii) an assessment of the potential risks to:-
  - human health;
  - property (existing or proposed), including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - groundwaters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments.
- iii) an appraisal of remedial options and proposal of the preferred option(s)

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

25. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and proposals for how the remediation works will be verified once completed. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

#### **NOTES TO APPLICANT:**

1. The Lead Local Flood Authority advises that the information detailed below (where applicable), will be required as an absolute minimum in order to discharge any of the drainage conditions
  - A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
  - B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).
  - C. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
  - D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
  - E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
  - F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
  - G. The applicant should provide a flood evacuation plan which outlines:
    - The flood warning procedure
    - A safe point of extraction
    - How users can safely evacuate the site upon receipt of a flood warning



- The areas of responsibility for those participating in the plan
  - The procedures for implementing the plan
  - How users will be made aware of flood risk
  - How users will be made aware of flood resilience
  - Who will be responsible for the update of the flood evacuation plan
- H. Flood resilience should be duly considered in the design of the new building/s or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.
- I. Surface water drainage plans should include the following:
- Rainwater pipes, gullies and drainage channels including cover levels.
  - Inspection chambers, manholes and silt traps including cover and invert levels.
  - Pipe sizes, pipe materials, gradients and flow directions and pipe numbers.
  - Soakaways, including size and material.
  - Typical inspection chamber / soakaway / silt trap and SW attenuation details.
  - Site ground levels and finished floor levels.
- J. On Site Surface Water Management;
- The site is required to accommodate rainfall volumes up to 1 in 100 year return period (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
  - The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas etc., to demonstrate how the 100 year + 30% Climate Change rainfall volumes will be controlled and accommodated, also incorporating a sensitivity test to 40% Climate change. In addition an appropriate allowance should be made for urban creep throughout the lifetime of the development (to be agreed with the LLFA).
  - Production of a plan showing above ground flood pathways (where relevant) for events in excess of 1 in 100 year rainfall, to ensure exceedance routes can be safely managed
  - A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc.)

#### **Peak Flow Control**

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100yr rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

#### **Volume Control**

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must not exceed the greenfield runoff volume for the same event

- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

*Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).*

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network whatever size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689- 1:2003
- Volume design calculations to 1 in 100 year rainfall + 30% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (Soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

- L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable).
- M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

The County Council holds a suite of information that can inform site development across Derbyshire. The information within this document has been interpreted and provided by an officer from the Flood Risk Management team.

- Historical data has been collated from a range of sources and is anecdotal. The provision of this data is suggested to act as a guide only.
- Fluvial data has been provided by the Environment Agency however the applicant is advised to contact the Environment Agency for further information should the site lie within the floodplain of a Main River.
- The County Council holds British Geological Survey data under a licenced agreement and therefore are not licenced to reproduce this information into the public domain.
- Further information regarding the Water Framework Directive, ecology and biodiversity should be obtained from the Environment Agency and Natural England.

2. The Local Highway Authority has requested the following notes be attached for the applicants information:-

- A. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.
- B. Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
- C. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- D. The application site is affected by public Rights of Way, Footpath No's 1 and 2 on the Derbyshire Definitive Map. These routes must remain unobstructed on their legal alignment at all times and the safety of the public using it them not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer. Please note that:-

- The granting of planning permission is not consent to divert or obstruct a public right of way.
  - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
  - If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
  - Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
  - To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.
- E. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management - telephone 01629 538686.
3. The Local Planning Authority have prior to, and during, the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame problems with the application relating to the reasons for refusal of the previous outline planning application.
  4. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £116 per request. The fee must be paid when the request is made and cannot be required retrospectively.
  5. This decision notice relates to the following documents:
    - Site Location Plan 1:1250 received on 11<sup>th</sup> January 2019
    - Site Plan as Existing 1:200 received on 11<sup>th</sup> January 2019
    - Topographical Survey 1:200 received on 11<sup>th</sup> January 2019
    - Indicative Layout Plan 1:200 received on 11<sup>th</sup> January 2019
    - Planning, Design and Access Statement received on 11<sup>th</sup> January 2019
    - Flood Risk Assessment received on 11<sup>th</sup> January 2019
    - Arboricultural Assessment received on 11<sup>th</sup> January 2019
    - Preliminary Ecology Survey received on 11<sup>th</sup> January 2019
    - Activity Survey for Bats received on 11<sup>th</sup> January 2019
    - Employment Feasibility Assessment received on 11<sup>th</sup> March 2019.

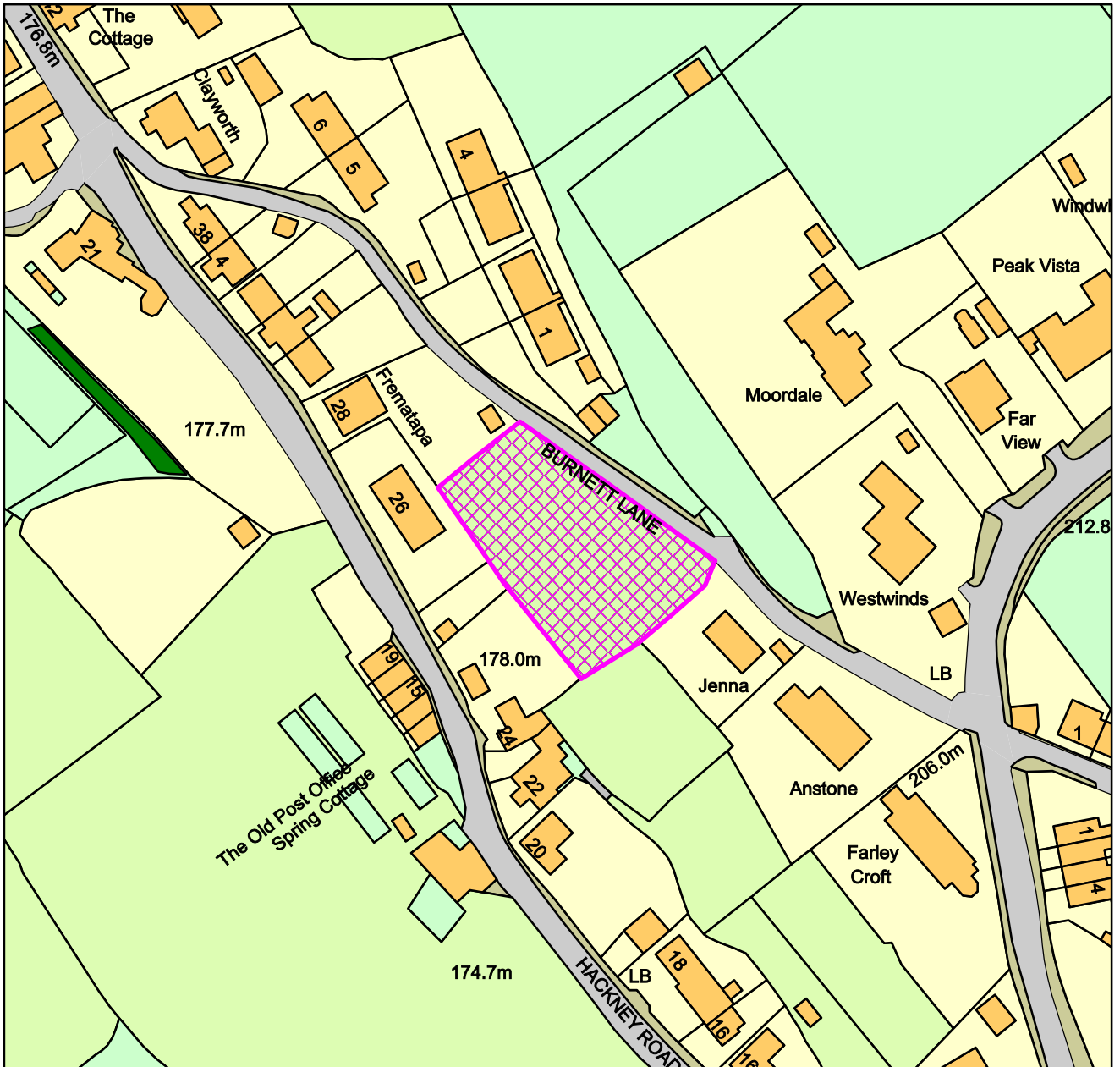
<b>APPLICATION NUMBER</b>		19/00138/FUL	
<b>SITE ADDRESS:</b>		Land Adjacent to Jenna, Burnett Lane, Hackney	
<b>DESCRIPTION OF DEVELOPMENT</b>		Erection of dwelling	
<b>CASE OFFICER</b>	Mr. G. A. Griffiths	<b>APPLICANT</b>	Mr. Rippon
<b>TOWN</b>	Darley Dale	<b>AGENT</b>	Oldfield Design Ltd.
<b>WARD MEMBERS</b>	Cllr. J. Atkin Cllr. M. Salt Cllr A. Statham	<b>DETERMINATION TARGET</b>	3 <sup>rd</sup> April 2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Level of local objection	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	Requested by Officers to allow Members to assess the proposed development in its context.

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Background and Principle of Development</li> <li>• Impact on the Character and Appearance of the Area</li> <li>• Impact on Trees</li> <li>• Impact on Highway Safety</li> <li>• Impact on Neighbours' Amenity</li> <li>• Other Matters</li> </ul>

<b>RECOMMENDATION</b>
Refusal

19/00138/FUL

Land Adj. to Jenna, Burnett Lane. Hackney



Derbyshire Dales DC

1:1,250

Date: 30/05/2019

100019785

Crown Copyright and database rights (2018) Ordnance Survey (100019785)  
Derbyshire Dales District Council,  
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk

## **1. THE SITE AND SURROUNDINGS**

- 1.1 The property is a steeply sloping embankment (north east down to south west) which was wooded with fairly mature trees; many of the trees have been removed. The site is set to the north east of, and overlooks, dwellinghouses on the east/north east of Hackney Lane and is set to the south of Burnett Lane. To the north west of the site is an area of open land; the site is otherwise surrounded by largely detached or semi-detached dwellinghouses.
- 1.2 The site is therefore contained within the built form of the area but is nevertheless outside of the Settlement Framework boundary for Matlock, albeit the site is within the ward of Darley Dale.

## **2. DETAILS OF THE APPLICATION**

- 2.1 Full planning permission is sought for a dwellinghouse on the site further to the granting of outline planning permission (ref: 16/00085/OUT).
- 2.2 This would support a 3.5 storey dwellinghouse the main part of which would measure 14.2m wide by 8.5m deep (10m deep with the projecting balcony at upper ground floor level. This would be set above a lower ground floor and some 10m in height from ground level to ridge. To the east the main element would be a side projection measuring some 6.9m wide by 5.9m deep and some 7.6m in height from ground level to ridge. The dwellinghouse is proposed to be constructed with coursed gritstone with a blue slate roof and grey coloured aluminium door and window frames. The lower ground floor level is proposed to be a rubble gritstone as a reflection of retaining walls. The upper ground floor and first floor are proposed to have balconies on the south facing elevation. This is to provide amenity space on this steeply sloping site.
- 2.3 The dwellinghouse is proposed to have four floors of accommodation. The lower ground floor is proposed to have a home cinema and gym area, the upper ground floor is proposed to have three bedrooms (one ensuite) a bathroom and separate wc. The first floor is proposed to have a lounge, open plan kitchen, sitting area, dining area and breakfast area, a hall, utility and wc. The element to side is proposed to house a double garage at this level. The second floor, in the roofscape, is proposed to have a master bedroom with ensuite and dressing room. The applicant has submitted a Design and Access Statement. This advises on the requirements of the applicant to achieve a relatively large dwelling. The applicant also advises that the living area has been determined to ensure disabled access, albeit access to the bedrooms will be via staircases.
- 2.4 The dwelling is proposed to be sited where the site is less steep but there will be a need for a series of retaining walls to support the land/dwelling. It is the intention to retain the remaining trees on the site where possible. The applicant has submitted an arboricultural report. This advises that of the eighteen trees on the site, six trees have structural defects and would be best removed.

## **3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

- 3.1 Adopted Derbyshire Dales Local Plan (2017)
  - S1 Sustainable Development Principles
  - S2 Settlement Hierarchy
  - S4 Development in the Countryside
  - S7 Matlock/Wirksworth/Darley Dale Development Area Strategy
  - PD1 Design and Place Making
  - PD3 Biodiversity and the Natural Environment

PD5	Landscape Character
PD6	Trees, Hedgerows and Woodlands
PD9	Pollution Control and Unstable Land
HC1	Location of Housing Development
HC19	Accessibility and Transport
HC21	Car Parking Standards

#### 4. RELEVANT PLANNING HISTORY

17/00603/FUL	Erection of Dwelling – Refused
16/00085/OUT	Erection of Dwelling including Access (Outline) - Granted

#### 5. CONSULTATION RESPONSES

##### Town Council

- 5.1
- object
  - dwelling too large for the plot and in comparison with the surrounding area
  - road leading to the plot will make getting equipment up to the site problematic and will impact on surrounding homes
  - home is not in keeping with surrounding houses and will encroach on the homes around it with its size and design

##### Local Highway Authority (Derbyshire County Council)

- 5.2
- no objection subject to conditions

##### Arboriculture and Landscape Officer (Derbyshire Dales)

- 5.3
- other houses along the lane are of similar scale and appear to be built into the land in a similar way to the proposed
  - land is steeply sloping but the houses below the site appear to be located far enough away from the proposed position of the new dwelling to not be particularly adversely affected and do not appear likely to be shaded by it
  - proposed dwelling would appear to be similarly set back from the road as the neighbouring house, Jenna
  - dilapidated dry stone wall fronting the site should be rebuilt as part of the scheme using local gritstone in a style to match other walls in the immediate vicinity
  - proposed retaining walls should be clad using local gritstone to help assimilate them into the local environment
  - trailing and/or climbing plants could be planted and allowed to grow over them to further obscure them
  - a number of trees are scheduled for removal due to their poor form, leaving several mature trees within the site some of which have root protection areas extending into the footprint of the building
  - detailed Arboricultural Method Statement (AMS) is required for approval before a decision can be made regarding planning permission and should provide information regarding how retained trees will be protected
  - trees to be retained should be made subject to a new TPO if planning permission is granted to ensure their amenity and shielding of the development into the future
  - because the trees are on the south side of the proposed dwelling they may be under pressure for removal once occupied due to shading issues.



## 6. REPRESENTATIONS RECEIVED

6.1 A total of seven letters of representations have been received. A summary of the representations is outlined below:

- fail to see the difference between current proposal and previously refused proposal
- now proposed to be four storeys and pre-planning advice has reiterated that the property should be two storey in height
- would be dominant and incredibly overbearing
- all properties along Burnett Lane and on Hackney Road within close proximity of the site are 2 or 3 three bed roomed
- loss of privacy to 1 Burnett Lane from windows on north west elevation
- would be imposing on neighbouring properties
- proposed driveway would sit above Jenna with a further two storeys above this
- design not in keeping with any of the houses in the immediate or even extended area
- a single storey bungalow would be more in keeping, certainly no more than two storeys
- use of materials for a building of this bulk seem ill conceived
- Burnett Lane is extremely narrow and in a bad state of repair - will the lane be resurfaced and maintained to provide access for heavy vehicles and machinery needed for the development?
- concerned that construction related vehicles will block the highway
- heavy vehicles will have to reverse up Burnett Lane and back out onto Farley Hill
- access from Burnett Lane to Hackney Lane is extremely narrow
- wish to be assured of access to 5 Burnett Lane at all times
- four car parking spaces for family but no opportunity for visitor parking
- vehicles come speeding up Burnett Lane as a short cut and the placement of the access would be very dangerous
- impact on stability of the slope
- could destabilise neighbour's retaining wall which has already partly fallen down
- impact on drainage through deposition of material blocking drains from works traffic
- have regular flooding of garage with torrential rain
- impact on water pressure with additional usage associated with dwellinghouse with four bathrooms and two wcs
- concern whether it would be connected to the mains as blue edge land believed to have been sold off
- piling will aggravate underground water courses and land movement
- would like a party wall survey prior to construction and barrier to prevent falling debris
- request adequate sheeting over the site to prevent dust
- would like to know methodology of, and times of, construction
- request a copy of the contractor's site insurance certificate
- impact on protected species such as owls, bats, birds, hedgehogs and other small animals
- dwelling would be partially behind trees which are to be safeguarded but block the property's view – feel these may get damaged or removed during construction.
- concern about disruption and inconvenience

## 7. OFFICER APPRAISAL

### Background and Principle of Development

7.1 This application needs to be considered having regard to a background of unusual circumstances.

7.2 The site, whilst surrounded by dwellings on the fringe of Matlock, is outside of the recently approved Settlement Boundary for Matlock and, as such, the policy principle would be to

resist residential development. Whilst outline planning permission 16/00085/OUT was granted on 18<sup>th</sup> April 2016 for a dwellinghouse on the site, this was at a time when the District Council could not rely on the policies of the then Adopted Local Plan (2005) as it could not demonstrate a five year housing land supply. At that time, the site was considered to be a reasonably sustainable site as it sits within the built form of Matlock.

7.3 Having been granted outline planning permission, the applicant subsequently submitted a full planning application for the development of the site (ref: 17/00603/FUL). This was refused planning permission for the following reason:

1. *The dwellinghouse, by reason of its design, scale and massing, is considered harmful to the character and appearance of the area and as such fails to comply with Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005), Policy PD1 of the Draft Deposit Local Plan and guidance contained in the National Planning Policy Framework.*

Further to this decision, the applicant engaged with Officers in seeking to provide a dwellinghouse on the site which sought to address the constraints with regard to the steeply sloping site, the trees within it and the viability of developing the site given its constraints.

7.4 Having gone through protracted pre-application discussions, the applicant again chose to submit a full planning application rather than a reserved matters application. As the outline planning permission was issued on 18<sup>th</sup> April 2016, this permission in principle lapsed three years later on 18<sup>th</sup> April 2019. During this period, the District Council adopted the current Local Plan in 2017 and now has a five year housing land supply.

7.5 Unfortunately in this case, had a reserved matters application been submitted in February 2019 instead of a full planning application, the outline planning permission would still be live as the reserved matters would have been submitted prior its expiry and the development proposals would not have to be considered in terms of planning principle.

7.6 It should also be noted that, as the application had to be determined by the Planning Committee, given the level of local objection, the first time it could have been presented would have been to an April Planning Committee. As such, as the outline planning permission expired on 18<sup>th</sup> April 2019, there may have been adequate time to present the application to the usual April Planning Committee had it not been for the local elections. To this end, this June Planning Committee is the first Committee to which the application could be presented and the outline planning permission has expired.

7.7 Notwithstanding the above, this is a full planning application, not a reserved matters application, and it must be considered as such. Whilst circumstances have gone against the applicant in terms of the availability of a Planning Committee to consider the application, this is not an issue that carries planning weight. This full planning application fails to accord with Policy S4 of the Adopted Local Plan (2017) and consequently a presumption against this scheme applies unless other material considerations indicate otherwise. The following issues need to be considered:

- Impact on the Character and Appearance of the Area
- Impact on Trees
- Impact on Highway Safety
- Impact on Neighbours' Amenity
- Other Matters.

#### Impact on the Character and Appearance of the Area

7.8 Policies S1 and PD1 of the Adopted Local Plan are considered relevant to considering the character and appearance of a dwelling. Policy S1 states that planning permission will need

to secure a high quality, locally distinctive and inclusive design and layout. In addition, Policy PD1 states that design quality should be reflected through an understanding of the site context and requiring developments on the edge of settlements to reflect, enhance and/or restore landscape character. This also requires that development contributes positively to an area's character, history and identity in terms of scale, height, density, layout appearance and materials and the relationship to adjoining buildings and landscape features.

- 7.9 The applicant has advised that, given the size of the application site and the general pattern of dwellings in the area, a relatively large dwelling would be most suited on the plot and the dwelling has been designed to meet the level of accommodation they require. However, whilst this is a reasonably large plot, this is not an unusual characteristic of other residential curtilages in the area and the site is also constrained by existing landscaping which forms an important element of the setting of the site. The dwellinghouse itself would appear significantly larger than most dwellings in the area, particularly given the prominence of the site and extent of built form and engineering works proposed. However, when viewed from Burnett Lane, its scale would be little more than a bungalow.
- 7.10 The dwellinghouse proposes to use traditional materials but in a more contemporary manner. The rubble stone facing of the lower ground floor would reflect upon the retaining walls that would be required below it to secure the slope. Its design would also allow the face to disperse across the slope in a similar manner to the retaining walls below and it would be merely 'punctured' with windows.
- 7.11 The elevations to the two floors above could have introduced a more contemporary, light weight appearance but it has been the applicant's desire for these elevations to be of stone with large sections of glazing. The stone is proposed to be of diagonal punched, ashlar gritstone blocks to give a 'prestigious' appearance to the walls into which the large sections of glazing would be inset. This is considered acceptable in the context of this area of different architectural styles of different periods and where a variety of materials have been used.
- 7.12 Given the above, whilst the dwellinghouse would be large, this is not to say it cannot be accommodated in this setting. It is larger than the previously refused scheme, but the sense of scale and massing has been addressed somewhat by staggering the building back up the slope rather than it being a flat-faced elevation set on a large retaining wall as the previous scheme. It is proposed to be broken into a series of sections which will alleviate some of its sense of scale and massing as a single entity.
- 7.13 The building would be set within a relatively large plot and, whilst it would appear prestigious in the area, this is not a reason to refuse planning permission. In addition, it is considered that a large dwelling can be contained within the context of other large properties and structures in the area.

#### Impact on Trees

- 7.14 The site has been cleared of some trees and undergrowth. However, the remaining trees still play an important role in framing the site and add to the skyline when viewed from below from Hackney Road. The trees are also a reflection of the characteristic of the trees that align these upper slopes of the townscape.
- 7.15 The applicant has proposed to retain the remainder of the trees on the submitted plan, albeit the arboricultural report suggests that six of them should be removed and some trees would be impacted upon by the proposed retaining walls. It is considered reasonable to attach a condition that the trees to be retained are safeguarded during the construction process and as part of a landscaping plan for the site, which will probably need to include works to introduce levels to the steeply sloping site in order to provide garden amenity space. Any trees that need to be removed would be expected to be replaced by new trees as a condition on any grant of planning permission to ensure the satisfactory appearance of the overall

development. It is not considered that the development can be reasonably refused on the impact on the existing trees given that an outline planning permission was granted for the development of the site with an expectation that some trees would be impacted upon. There are areas to the north and west of the site where some replacement trees can be provided.

#### Impact on Highway Safety

- 7.16 Residential development of the site has previously been refused planning permission (ref: 0687/0448) for reasons of highway safety; this was given the inadequacy of Burnett Lane's junctions with Farley Hill and Hackney Road and that such a development would set a precedent for future development along the steep, single width access. However, the Local Highway Authority has given full consideration to the present proposal. It is advised that there is no objection to the proposal subject to conditions regarding visibility sightlines, the provision and retention of four parking spaces and the access remaining ungated.

#### Impact on Neighbour's Amenity

- 7.17 The dwellinghouse will loom over the dwellinghouses on Hackney Lane and, whilst it may be sited some 23m from the nearest dwelling below, it is considered that there could be a sense of overlooking and impact on the perceived amenity of the neighbours; this was the case with the previous application.

- 7.18 However, the dwellinghouse is now proposed to be constructed in a manner where it steps up the hillside, with the lower ground floor contained in the retaining structure and it, and the floors above, set back with a patio/balcony area in front. In this regard, the overlooking would only occur on the occasion that the occupiers stand up to the balustrades, which would not be expected to happen often enough to warrant a reason for refusal on the grounds of a loss of privacy. Views from windows would not be down to the properties below, but off to the distance. The impact is considered to be little more than that associated with tending the land associated with the property. To this end, it is considered that the impact on amenity is insufficient to justify a recommendation of refusal.

- 7.19 The neighbours at Jenna have raised concerns with regard to their privacy and that the development would be imposing on their property and that the proposed driveway would sit above Jenna with a further two storeys above this. To this end, the height of the parking/access area would be similar to that associated with Jenna's car parking area. The garage element of the building would be then set above this some 14m away from Jenna and the main part of the dwelling would then appear above this, at 1½ storey height, some 21m away beyond this. It is not considered that this interrelationship is so harmful to justify a recommendation of refusal.

- 7.20 The neighbour at 1 Burnett Lane has also raised concern over loss of privacy. However, the dwellinghouse is some 20 m away from the proposed dwelling at a rather acute angle to the point that it is considered that privacy will not be significantly impacted upon. The windows which would face in the general direction are a bedroom window, dressing room window and two hall windows. To this end, there is considered to be no significant loss of privacy.

#### Other Matters

- 7.21 The applicant has not submitted an ecological survey with the application. However, a significant number of trees and undergrowth have been removed prior to the submission of this and previous applications. Any harm that may have been caused now, or in the future, would be subject to consideration under the Wildlife and Countryside Act.

- 7.22 The site is steeply sloping and may have implications for land drainage, particularly surface water run-off as a result of the extent of roofscape, hardstanding, etc. However, given the extent of site curtilage, it is considered that a drainage solution can be found that ensures

that the development is SuDS compliant; this would be addressed through the Building Regulations.

7.23 With regard to water pressure, this is a matter for the applicant to consider in developing the site and the implications it may have on the occupiers of adjacent properties as a civil matter and is not a matter to be addressed through the planning process.

#### Conclusion

7.24 The site is clearly a constrained site for development, given the steepness of the bank. To this end, any development on the site is going to have to be of a reasonable scale to compensate the extra-ordinary costs with developing the site with such constraints.

7.25 It is appreciated that this is a large house. The previous scheme was for a 2½ storey building where there was clear overlooking from all the south facing windows towards the dwellinghouses below. However, the dwellinghouse is now proposed to be formed with a series of step backs to its south west facing elevation and it is considered that the overlooking is contained to those occasions where people may go to the balcony edges; much of the aspect will otherwise be off to the distance and over the balconies.

7.26 The building, whilst large, does step up the hillside rather than being a flat faced, two storey elevation sat atop a large, flat faced retaining wall as previously proposed. Whilst it is appreciated that this makes the building bigger, it is considered the development will appear less overbearing, and utilises the retaining wall for accommodation, rather than being a single, overbearing mass of walling as previously proposed.

7.27 It is apparent from the above that Officers consider that a dwelling can be integrated into this site without unduly harming the character and appearance of the locality or neighbouring amenity. It is also true to say that the site lies within the overall built area of Matlock and consequently was previously considered, at the time when the Council did not have a Local Plan, to be a reasonably sustainable site for a new dwelling. The advancement of the Local Plan, in combination with delays in bringing forward the scheme have, however, presented a dilemma as no permission currently exists and the site is outside of the defined Settlement Boundary where Policy S4 would usually preclude new housing.

7.28 The policies of the Local Plan are the first consideration in assessing this scheme and conflict with these policies would normally preclude supporting the application unless material considerations indicate otherwise. There are important issues that weigh in favour of this scheme. It has previously secured outline planning permission, is located in a relatively sustainable location, is surrounded by housing and the development would not undermine the character and appearance of the open countryside. However, the purpose of Policy S4 is to direct development into Settlement Boundaries and prevent the spread of built development into unallocated areas. This objective would be compromised and allowing the scheme could be viewed as potentially setting a precedent for others to advance similar schemes.

7.29 In the final analysis, whilst this is a fine balance, it is considered that, notwithstanding the circumstances and history of this site and the way this scheme may successfully integrate with the locality, the policies in the Adopted Local Plan (2017) should prevail and, consequently, a recommendation of refusal is appropriate.

## 8 RECOMMENDATION

That planning permission be refused for the following reason:

1. The proposal is for an open market dwellinghouse in an unsustainable location outside of a Settlement Boundary and, as such, is contrary to Policy S4 of the Adopted Derbyshire Dales Local Plan (2017)

### NOTES TO APPLICANT:

1. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with regard to the principle of residential development in such an unsustainable location. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.
2. This decision notice relates to the following documents:

Site Location Plan 1:1250 received on 6<sup>th</sup> February 2019

Drawing No. 1635-01A, 10B, 11B and 12A received on 6<sup>th</sup> February 2019

Design and Access Statement received on 6<sup>th</sup> February 2019.

Arboricultural Report received on 6<sup>th</sup> February 2019.

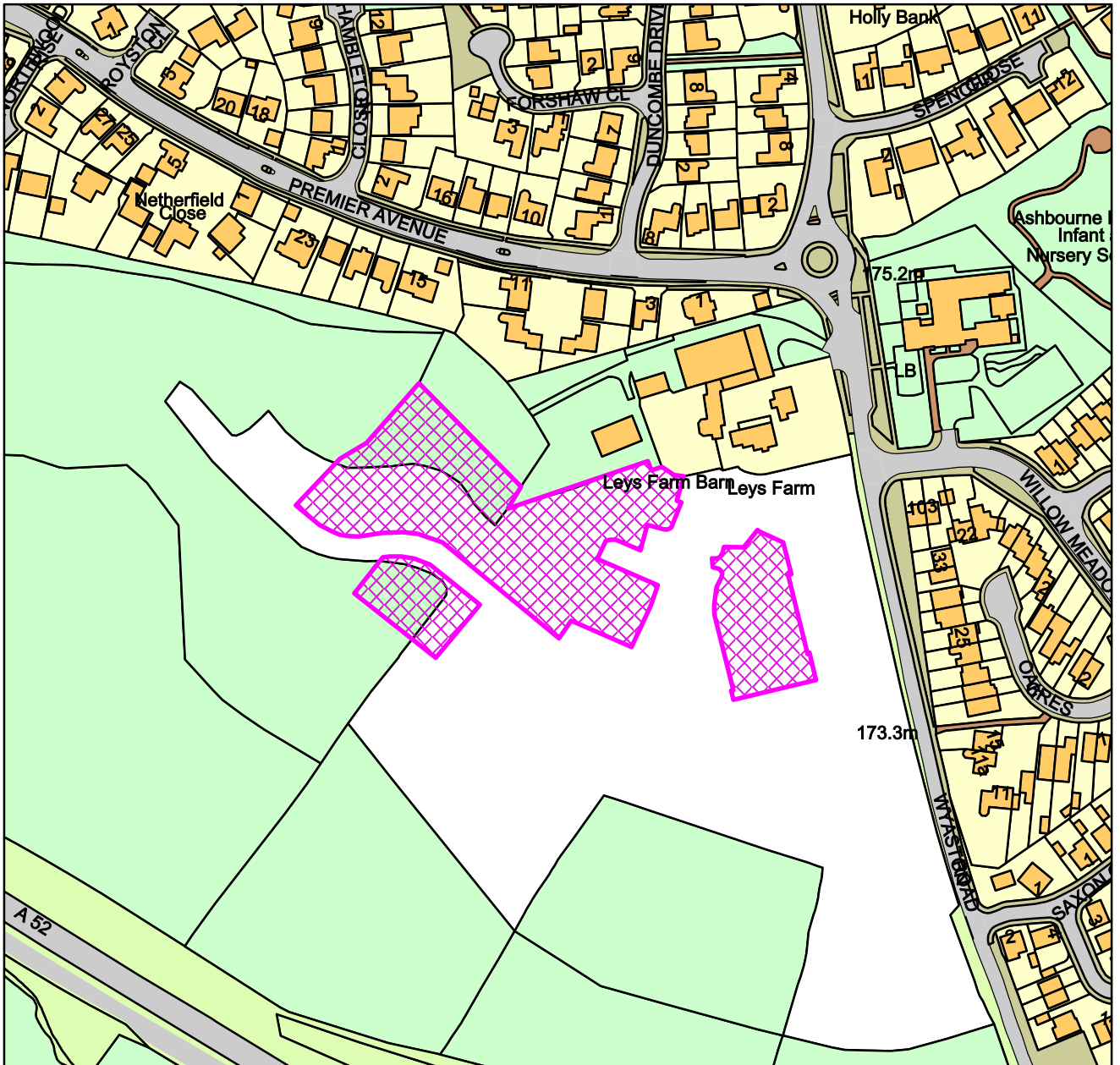
<b>APPLICATION NUMBER</b>		19/00485/S106M	
<b>SITE ADDRESS:</b>		Leys Farm, Wyaston Road, Ashbourne	
<b>DESCRIPTION OF DEVELOPMENT</b>		Proposed modification of Section 106 agreement dated 13 <sup>th</sup> December 2015 to amend the terms of the affordable housing provision and make provision for off-site sports contribution	
<b>CASE OFFICER</b>	Mr Chris Whitmore	<b>APPLICANT</b>	Mr Dave Bishall
<b>PARISH</b>	Ashbourne	<b>AGENT</b>	None
<b>WARD MEMBER(S)</b>	Cllrs. Donnelly and Archer	<b>DETERMINATION TARGET</b>	29 <sup>th</sup> July 2019
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Linked to major application	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	Not required.

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>Whether the proposed modifications to the s106 planning obligation dated 13<sup>th</sup> December 2015 are acceptable, having regard to the terms upon which the original decision was made, development plan policy requirements and Community Infrastructure Levy Regulations.</li> </ul>

<b>RECOMMENDATION</b>
<p>That delegated authority be given to the Development Manager to instruct legal services to secure the following through a deed of variation:</p> <ul style="list-style-type: none"> <li>The transfer of the 7 no. affordable dwellings proposed as part of approval of reserved matters application code ref. 19/00073/REM to a registered social landlord for £1</li> <li>An off-site affordable housing contribution of £664,160.20</li> <li>£71,573 towards a local sports pavilion project.</li> </ul> <p>and upon completion of the deed of variation the application be granted.</p> <p>(Contributions relating to education, offsite highway improvements and travel plan monitoring to remain unaffected).</p>

19/00485/S106M

Leys Farm, Wyaston Road, Ashbourne



Derbyshire Dales DC

1:2,500

Date: 30/05/2019

100019785

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Derbyshire Dales District Council,  
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.  
Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk



## 1. THE SITE AND SURROUNDINGS

- 1.1 The application concerns a site being developed for housing at Henmore Gardens (formerly Leys Farm), off Wyaston Road, Ashbourne by Redrow Homes (see photographs 1 – 3) approved under outline application code ref. 15/00319/OUT and multiple approval of reserved matters applications.



(Photograph 1)



(Photograph 2)



(Photograph 3)

## 2. DETAILS OF THE APPLICATION

- 2.1 This application is submitted further to the consideration of application code ref. 19/00073/REM at committee on the 12<sup>th</sup> March 2019, where delegated authority was given to the Development Manager to agree an affordable housing scheme that gifted the affordable housing to be delivered on-site as part of this application to a registered provider and to agree with the Head of Housing and developer what this would equate to in terms of on-site provision and where appropriate secure an enhanced off-site financial contribution in lieu of delivery on-site up to 25% (to be equivalent to the affordable housing contributions secured in respect of outline planning permission code ref. 15/00319/OUT).
- 2.2 It was agreed, subject to carrying out the above and ensuring an appropriate legal mechanism and timetable was in place to deliver the affordable dwellings and any enhanced off-site contribution, that the planning application could be approved with conditions.
- 2.3 Although discussions took place between the Council and the developer after this meeting with regard to what delivery of 7 no. affordable houses would equate to in terms of on-site provision and what level of enhanced off-site contribution would be required, upon review of

the original s106 agreement it was not considered to be comprehensive enough / sufficient to secure such changes, particularly with regard to the terms of transfer of any units and triggers, despite the ability to agree an affordable housing scheme.

- 2.4 This application therefore seeks to secure the changes to the legal agreement to enable the transfer of the 7 affordable units proposed as part of application code ref. 19/00073/REM and to make an enhanced affordable housing contribution. As part of revisiting the developer contributions the developer also proposes to contribute towards a costed sports pavilion project in the local area, to compensate for the pressures the development will place on sport provision. Contributions relating to education, offsite highway improvements and travel plan monitoring will remain unaffected

### **3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

#### **3.1 The Development Plan**

##### Adopted Derbyshire Dales Local Plan (2017)

S1	Sustainable Development Principles
S2	Settlement Hierarchy
S3	Development within Defined Settlement Boundaries
S8	Ashbourne Development Strategy
S10	Local Infrastructure Provision and Developer Contributions
PD1	Design and Place Making
PD5	Landscape Character
PD6	Trees, Hedgerows and Woodland
PD7	Climate Change
PD8	Flood Risk Management and Water Quality
HC1	Location of Housing Development
HC4	Affordable Housing
HC11	Housing Mix and Type
HC14	Open Space, Sports and Recreation Facilities
HC19	Accessibility and Transport
HC21	Car Parking Standards

#### **3.2 Other Material Considerations:**

National Planning Policy Framework (2019)  
National planning practice guidance  
Community Infrastructure Levy Regulations 2010  
Derbyshire Dales Playing Pitch Action Plan (January 2019 Refresh)

### **4. RELEVANT PLANNING HISTORY**

19/00073/REM - Reserved matters application for the approval of layout, appearance and landscaping for replanned plots 8-16, 40-47 and 51-76 resulting in a reduction of overall plots to 110 (Outline permission 15/00319/OUT) – Resolved that the application be approved at the planning committee meeting on the 12<sup>th</sup> March 2019

18/00215/REM - Modification to approval of reserved matters application 17/00250/REM to substitute house types on 20 no. plots – Approved

17/00250/REM - Approval of Reserved Matters - Erection of 113 dwellings (Outline permission 15/00319/OUT) - Approved

16/00309/REM - Residential development - reserved matters application for the erection of 103 dwellings (outline permission 15/00319/OUT) - Approved

15/00319/OUT - Residential development of up to 115 dwellings with associated public open space (Outline) – Approved

14/00354/OUT - Residential development of up to 145 dwellings with associated public open space (outline) – Refused

14/00183/OUT - Residential development of up to 145 dwellings with associated public open space (outline) – Withdrawn

## **5. CONSULTATION RESPONSES:**

### **5.1 Ashbourne Town Council:**

Object. Members feel that there is a need for affordable housing in Ashbourne.

### **5.2 Head of Housing (Derbyshire Dales District Council):**

The Community Housing Team supports this application.

## **6. REPRESENTATIONS RECEIVED**

6.1 None.

## **7. OFFICER APPRAISAL**

7.1 In order to be able to transfer the affordable housing to be delivered on site to a registered provider, following the resolution to approve application code ref. 19/00073/REM at planning committee on the 12<sup>th</sup> March 2019, the s106 secured in respect of application code 15/00319/OUT requires variation. The level of off-site affordable housing, in the form of a commuted sum also requires consideration in lieu of delivery on site.

7.2 As part of consideration of the developer contributions in respect of application code ref. 15/00319/OUT, the policy requirement at that time was for a contribution equivalent to 45% of the total number of dwellings to be delivered. In the case of the application site a split of 25% provision on site and 20% off site, in the form of a commuted sum was agreed. As set out in the officers report relating to application code ref. 19/00073/REM the developer has been unable to secure a registered provider to purchase the affordable units to be delivered on site. Whilst there is a mechanism in the s106 agreement accompanying the outline application and a defined formula to secure further affordable housing contributions in lieu of the provision of dwellings on site, where no 'reasonably viable interest' has been shown by a registered provider, the developer offered up the delivery of 7 no. affordable dwellings at zero cost to a registered provider as an alternative to enable delivery on site.

7.3 The developer commenced development in full knowledge of / agreement to the level of affordable housing that had been secured and despite Policy HC4 of the Adopted Derbyshire Dales Local Plan requiring that developments provide 30% of the net dwellings proposed as affordable housing, they are committed to the delivery of developer contributions at the level previously agreed. In addition to Policy HC4 which deals specifically with affordable housing delivery, Policy S10 of the Adopted Derbyshire Dales Local Plan (2017) deals with local infrastructure provision and developer contributions and advises that the District Council will work with partners to ensure that infrastructure will be in place at the right time to meet the needs of the District and to support the development strategy and that suitable arrangements will be put in place to improve infrastructure, services and community facilities, where necessary. In terms of sports infrastructure, the policy advises that the

Council will support the provision of open space, sports and recreation facilities in order to meet the current and future needs of the district.

- 7.4 Recognising that there is an identified need for enhanced sports facilities in the local area the developer has offered up a contribution to an identified and costed sports pavilion project at Ashbourne Recreation Ground, which is reasonably related in scale and kind to the development proposal utilising the formula adopted by the Councils Sports Development Team. This amounts to £71,573.
- 7.5 The obligations relating to affordable housing secured on the back of outline application code ref. 15/00519/OUT comprise the delivery of 27 affordable dwellings (to be sold to a registered provider), based on the delivery of 110 dwellings and an off-site financial contribution of £542,754.
- 7.6 It is now proposed to transfer 7 no. affordable dwellings to a registered provider for £1 and make a contribution of £735,733.20 less £71,573 towards the sports pavilion project. The Head of Housing considers this to be an equivalent sum based on the calculation / formula contained within the original s106 agreement relating to the off-site affordable housing and costs associated with the delivery of affordable housing at effectively zero cost. Although the Town Council raise objections to the application on the basis that there is a need for affordable housing, the modifications would enable delivery of affordable housing on the site where there is no market interest, due to the significant supply in the area at this time, in addition to a sports contribution and affordable housing contribution at a level which complies with the original contributions secured (in their totality) and current development plan policy requirements.
- 7.7 For reasons set out above it is considered that the proposed modifications to the agreement dated 13<sup>th</sup> December 2015 are acceptable, having regard to the terms upon which the original decision was made and development plan policy requirements. They help meet the districts infrastructure and affordable housing requirements at this time and are necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind to the development project proposed. It is recommended that the application be approved following completion of a deed of variation with appropriate triggers to secure the developer contributions proposed on this basis.

#### **OFFICER RECOMMENDATION:**

That delegated authority be given to the Development Manager to instruct legal services to secure the following through a deed of variation:

- The transfer of the 7 no. affordable dwellings proposed as part of approval of reserved matters application code ref. 19/00073/REM to a registered social landlord for £1
- An off-site affordable housing contribution of £664,160.20
- £71,573 towards a local sports pavilion project at Ashbourne Recreation Ground.

and upon completion of the deed of variation the application be granted, with the following footnote:

1. This planning permission shall be read in conjunction with the accompanying legal agreement under Section 106 of the Town and Country Planning Act 1990 dated .....

## Ashbourne North

ENF/14/00071	Unauthorised building works to facilitate a Biomass Boiler and affecting the setting of a listed building.	Sturston Hall Farm Mill Lane Sturston Derbyshire DE6 1LN	Notice Issued
ENF/15/00014	Unauthorised alterations to listed building. Installation of photo voltaic panels on roof slope - Sturston Hall Farm, Ashbourne, DE6 1LN		Notice Issued
ENF/17/00094	Unauthorised fascia signs at 1 Shawcroft Centre, Dig Street, Ashbourne, DE6 1GF	1 Shawcroft Centre Dig Street Ashbourne Derbyshire DE6 1GD	Pending Consideration
ENF/18/00020	Change of use to hot food takeaway (A5) and works to a listed building (Grade II) - Shopfront changes, additional side entry and removal of bricks	3 Church Street Ashbourne Derbyshire DE6 1AE	Pending Consideration
ENF/18/00038	Breach of Conditions 6, 16, 17, 18, 19, 21, 22 and 23 of Planning Permission 09/00496/FUL (Allowed on appeal)	The Mount 4 North Avenue Ashbourne Derbyshire DE6 1EZ	Notice Issued
ENF/18/00101	Formation of vehicular access onto a classified road	Parkfield Stable Parkfield House Farm Kniveton Lane Offcote Derbyshire DE6 1JQ	Pending Consideration
ENF/18/00137	Erection of salon building in rear garden	91 Park Avenue Ashbourne Derbyshire DE6 1GB	Pending Consideration
ENF/19/00016	Installation of artificial grass to steps, neon internal signage and spotlights to Grade II Listed Building	5 Church Street Ashbourne Derbyshire DE6 1AE	Pending Consideration
ENF/19/00028	Replacement fascia and hanging sign and repainting of shop front	Costa 14 St John Street Ashbourne Derbyshire DE6 1GH	Pending Consideration
ENF/19/00082	Siting of caravan and alterations to associated access track	Land To The Rear Of Woodcock Delph And Adjacent To Herdsman Close Farm Ashbourne Road Fenny Bentley Derbyshire	Pending Consideration
ENF/19/00088	Signage scheme to Grade II Listed Building	Drink Zone Plus Ground Floor 5B St John Street Ashbourne Derbyshire DE6 1GP	Pending Consideration

## Ashbourne South

ENF/14/00070	Unauthorised internally illuminated signage above front of restaurant - 25 Dig Street, Ashbourne, DE6 1GF	25 Dig Street Ashbourne Derbyshire DE6 1GF	Pending Consideration
ENF/17/00038	Unauthorised works to listed building	Avanti Jewellers 2 - 4 Church Street Ashbourne Derbyshire DE6 1AE	Pending Consideration
ENF/18/00092	Holiday homes being used as permanent residences	Peak Gateway Leisure Club Osmaston Derbyshire DE6 1NA	Pending Consideration
ENF/18/00123	Signage advertising new development at Leys Farm development. One sign on Corner of Lower Pingle Road and one sign near the entrance to Ashbourne Golf Club	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Pending Consideration
ENF/18/00125	Breach of Conditions 6 (Soft Landscaping), 7(Landscape Management Plan), 8 (Amenity and Play Areas laid out before first occupation) and 27 (Landscape and Ecological Management Plan) of 14/00722/FUL	Land Formerly Hillside Farm Wyaston Road Ashbourne Derbyshire DE6 1NB	Notice Issued
ENF/18/00164	Unauthorised siting of caravan for residential purposes.	Land To The Rear Of Mayfield Road Cadet Hut Mayfield Road Ashbourne Derbyshire DE6 1AR	Pending Consideration
ENF/18/00207	Breach of Conditions of Planning Permission 17/01248/REM	Land North East Of Lathkill Drive Ashbourne Derbyshire	Pending Consideration
ENF/18/00208	Incorporation of public open space (as approved under 12/00774/OUT and 14/00356/REM) into residential garden	12 Tutbury Hollow Ashbourne Derbyshire DE6 1TD	Pending Consideration
ENF/18/00215	Erection of shed(s) on land forward of a principal elevation	7 Weaver Close Ashbourne Derbyshire DE6 1BS	Pending Consideration
ENF/18/00222	Breach of condition 16 of planning permission 16/00519/FUL - by failing to provide obscure glazing in the rear 1st floor east elevation windows of plots 4 and 5.	Former R Silcock Clothing Manufacturers Derby Road Ashbourne Derbyshire DE6 1BE	Notice Issued
ENF/18/00226	Unauthorised change of use of part of the building for residential purposes. 6A Henmore Trading Estate	Mr Wayne Travers 6A Henmore Trading Estate Mayfield Road Ashbourne Derbyshire DE6 1AS	Notice Issued
ENF/19/00007	Removal of Bin on development site (related planning application 14/00722/FUL)	Land Formerly Hillside Farm Wyaston Road Ashbourne Derbyshire DE6 1NB	Pending Consideration
ENF/19/00040	Breach of Condition 10 (Construction Management Plan) of planning permission 15/00060/OUT	Land Off Lathkill Drive Ashbourne Derbyshire	Pending Consideration
ENF/19/00046	Breach of Condition 4 (working hours) of planning permission 17/00250/REM	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Pending Consideration

## Brailsford

ENF/17/00058	Unauthorised erection of replacement fencing around boundary of South Lodge, Long Lane, Longford, Derbyshire	South Lodge Long Lane Longford Derbyshire DE6 3DS	Pending Consideration
ENF/18/00009	Unauthorised building works to barn at West Mammerton Farm, Sutton Lane, Longford	Buildings At West Mammerton Farm Sutton Lane Longford Derbyshire	Pending Consideration
ENF/18/00114	Breach of Condition 1 of 14/00031/TEMP - Mobile home should have been removed from site by the 19th August 2017 and the land reinstated	Round Oak Farm Slade Lane Mercaston Derbyshire DE6 3DZ	Pending Consideration
ENF/18/00129	Breach of conditions 2 (opening times) and 3 (number of customers) of planning permission 17/00540/FUL	The Spruces Main Road Brailsford Derbyshire DE6 3DA	Pending Consideration
ENF/18/00138	Unauthorised change of use of Agricultural land and the erection of a timber built cabin.	Land North East Of Willow Croft New Road Mercaston Derbyshire	Notice Issued
ENF/18/00193	Relocation of boundary fence outside of approved residential curtilage (related planning permission 13/00826/FUL)	Land Off Luke Lane Brailsford Derbyshire	Pending Consideration
ENF/18/00214	Use of dwelling approved under 17/00847/PDA for commercial business operations	Converted Barn At West Mammerton Farm Sutton Lane Longford Derbyshire DE6 3DE	Pending Consideration
ENF/19/00043	Breach of Condition 7 (Working Hours) of planning permission 18/00711/REM	Land At Luke Lane / Mercaston Lane Brailsford Derbyshire	Pending Consideration
ENF/19/00056	Engineering works	Ednaston Park Painters Lane Ednaston Derbyshire DE6 3FA	Pending Consideration
ENF/19/00062	Creation of new fishing lake	Birch House Fishing Lake Derby Lane Ednaston Derbyshire	Pending Consideration
ENF/19/00063	Unauthorised building of hay store. Building in different location to that approved under 16/00946/AGR.	Land North Of Willow Croft New Road Mercaston Derbyshire	Pending Consideration

## Carsington Water

ENF/16/00034	Unauthorised erection of Dog kennels	Four Lane Ends Farm Gibfield Lane Hulland Ward Derbyshire DE6 3EJ	Notice Issued
ENF/17/00082	Unauthorised erection of raised platform on land within the conservation area and to the rear of Barnwood, Hopton, Wirksworth, Matlock, Derbyshire DE4 4DF	Barnwood Main Street Hopton Derbyshire DE4 4DF	Pending Consideration



ENF/17/00095	Unauthorised building works to create a roof over an existing muck store and unauthorised minor enlargement of approved building, 15/00493/FUL.	Turlow Fields Farm Turlowfields Lane Hognaston Derbyshire DE6 1PW	Pending Consideration
ENF/18/00013	Building not built in accordance with approved plans	Mulino Lodge Agnes Meadow Lane Kniveton Derbyshire DE6 1JR	Pending Consideration
ENF/18/00105	Alterations not done in accordance with approved planning application 16/00912/LBALT	Brook Cottage Pethills Lane Kniveton Derbyshire DE6 1JN	Pending Consideration
ENF/18/00175	UNAUTHORISED ERECTION OF A NEW TWO STOREY BUILDING AT BARN 2, WALLANDS FARM, ASHBOURNE ROAD, BRASSINGTON, DERBYSHIRE, DE4 4DB	Wallands Farm Brassington Derbyshire DE4 4DB	Notice Issued
ENF/18/00179	Unauthorised engineering works to facilitate a standing area for farm machinery and produce.	Land And Buildings Off Wester Lane Ashbourne Road Brassington Derbyshire	Pending Consideration
ENF/18/00196	Works to Holiday Let - Installation of chimney, erection of conservatory and extension to single storey element. Other Works - Caravan hookups, associated timber structure and extension to shower block	New Harboro Farm Manystones Lane Brassington Derbyshire DE4 4HF	Pending Consideration
ENF/18/00202	Breach of Section 106 Obligations - Agreement No. 1093 (Related planning permission 05/00729/FUL)	Bradbourne Mill Bradbourne Derbyshire	Pending Consideration
ENF/18/00203	Erection of retaining wall		Pending Consideration
ENF/19/00021	Breach of conditions 3-4 of planning permission 15/00894/FUL, Erection of 4 garages, boundary wall and gates	Home Farm Main Street Hopton Derbyshire	Pending Consideration
ENF/19/00066	Breach of Condition 2 (Time Limit for siting of chalet) of planning permission 13/00158/EXF	Mulino Lodge Agnes Meadow Lane Kniveton Derbyshire DE6 1JR	Notice Issued
ENF/19/00067	Unauthorised engineering works to create a raised platform base for the approved building, and a new access and access track onto land off Manystones Lane, Brassington.	Land North Of Wirksworth Dale Brassington Derbyshire	Pending Consideration
ENF/19/00089	Creation of dog play park	Four Lane Ends Farm Gibfield Lane Hulland Ward Derbyshire DE6 3EJ	Pending Consideration

## Clifton And Bradley

ENF/18/00015	Unauthorised use of land for wood processing facility	Duke Of York Filling Station Mayfield Road Mayfield Ashbourne Derbyshire DE6 2BN	Pending Consideration
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ENF/18/00047	Use of agricultural building as a lorry shed and creation of hardstanding	Wyaston House Farm Orchard Lane Wyaston Derbyshire DE6 2DR	Pending Consideration
ENF/18/00055	Unauthorised erection of summer house, on land at Cloud Barn, Clifton Road (A515), Clifton, Derbyshire and Untidy Land	Cloud Barn Clifton Road Clifton Derbyshire DE6 2DH	Pending Consideration
ENF/19/00002	Erection of shed in field	Land Between The A517 And Rear Of Kennels Cottages Yew Tree Lane Bradley Derbyshire	Pending Consideration
ENF/19/00061	Unauthorised erection of satellite antenna on front elevation of curtilage listed building - The Malthouse, Bradley Pastures, Ashbourne, Derbyshire, DE6 1PL	Malthouse Belper Road Bradley Derbyshire DE6 1LP	Pending Consideration
ENF/19/00065	Erection of solar panel array on boundary	8 Cross Side Clifton Derbyshire DE6 2GJ	Pending Consideration

## Darley Dale

ENF/12/00034	Unauthorised demolition of a Listed wall and unauthorised access off the A6 at Dale Road North Darley Dale.	Stancliffe Quarry, Darley Dale, Matlock.	Notice Issued
ENF/17/00016	Breach of pre commencement conditions on planning permission 15/00718/FUL Demolition of existing dwelling and barn and erection of replacement dwelling and swimming pool building.	Former Bent Farm Farley Hill Matlock Derbyshire DE4 5LT	Pending Consideration
ENF/17/00100	Alleged - Unauthorised Use of Site and Building for the Holding of Weddings	Peak Village Ltd Darwin Lake Holiday Village Jagers Lane Darley Moor Matlock Derbyshire DE4 5LJ	Pending Consideration
ENF/17/00139	Unauthorised office building	Bent Farm / Ameycroft Farm Farley Hill Matlock Derbyshire DE4 5LR	Pending Consideration
ENF/17/00158	The unauthorised change of use of land for the storage of domestic and commercial vehicles, building materials and heras fencing	St Elphins Cottage Blind Lane Hackney Derbyshire DE4 2QE	Notice Issued
ENF/18/00067	Works comprising the formation of a widened access and works to provide water supply and electricity hook-ups points.	Former Bent Farm Farley Hill Farley Derbyshire DE4 5LT	Notice Issued
ENF/18/00070	Breach of condition 14 (hard and soft landscaping) of planning permission 10/00069/FUL - Failure of new trees	Land Off Morledge Bakewell Road Matlock Derbyshire	Pending Consideration
ENF/18/00086	Extension to agricultural building	St Elphins Cottage Blind Lane Hackney Derbyshire DE4 2QE	Pending Consideration

ENF/18/00103	Erection of fence over 1m in height adjacent to the highway	No. 16 And Riversdale Darley Avenue Darley Dale Derbyshire DE4 2GB	Pending Consideration
ENF/18/00121	Unlawful externally illuminated advertisements on land adjacent to Molyneux Business Park and A6 for Creating Spaces Ltd	Creating Spaces (Derbyshire) Ltd Unit 20A Molyneux Business Park Whitworth Road Darley Dale Derbyshire DE4 2HJ	Pending Consideration
ENF/18/00160	Siting of a Shepherd's Hut with Hot Tub for use as holiday accommodation	Oakstone Farm Old Hackney Lane Hackney Derbyshire DE4 2QJ	Notice Issued
ENF/18/00167	Unauthorised siting of temporary site cabin	St Elphins Park Darley Dale Derbyshire	Pending Consideration
ENF/18/00219	Siting of Caravans and Tents at Ameycroft, Farley Hill	Ameycroft Farm Farley Hill Farley Derbyshire DE4 5LR	Pending Consideration
ENF/19/00031	Garage not being built in accordance with plans (related application 18/00457/CLPUD) and agricultural building with office and rest area above being used as ancillary accommodation (related application 18/00104/FUL)	St Elphins Cottage Blind Lane Hackney Derbyshire DE4 2QE	Pending Consideration
ENF/19/00068	Dwelling not being built in accordance with planning permission 17/00809/FUL	Rear Of Sunnyside Terrace Farley Hill Matlock Derbyshire DE4 5LT	Pending Consideration

## Dovedale And Parwich

ENF/18/00090	Extension and raising of ridge height of existing outbuilding to 2.7m	Bank House Mapleton Road Mapleton Derbyshire DE6 2AB	Pending Consideration
ENF/19/00073	Siting of 40+ containers for rental	Ash Tree Farm Spend Lane Sandybrook Ashbourne Derbyshire DE6 2AR	Pending Consideration

## Doveridge And Sudbury

ENF/18/00165	Unauthorised change of use of agricultural building to use as commercial dog kennels.	Victory Farm 10 Marston Lane Doveridge Derbyshire DE6 5JS	Notice Issued
ENF/19/00017	Unauthorised commencement of development prior to correctly discharging planning conditions relating to planning permissions 15/00389/OUT - residential development of upto 70 dwellings and 18/00891/REM - Approval of reserved matters for the erection of 62 dwellings- Land East of Bakers Lane, Doveridge	Land To The East Of Bakers Lane Doveridge Derbyshire	Pending Consideration

## Hulland

ENF/14/00041	Breach of condition 2 relating to planning permission 10/00812/TEMP - Provision of temporary access for a period of 2 years - Redmire Gap, Intakes Lane, Turnditch, Derbyshire DE56 2LU	Redmire Gap Intakes Lane Turnditch Derbyshire DE56 2LU	Pending Consideration
ENF/15/00004	Unauthorised engineering works including substantive excavation on land at Common Farm.	Common Farm Mugginton Lane End Weston Underwood Ashbourne Derbyshire DE6 4PP	Pending Consideration
ENF/15/00024	The unlawful use of the buildings outlined and hatched green on the 1:2500 and 1:1000 Scale attached plans, as a dwellinghouse (Use Class C3).	Blackbrook Lodge Farm Intakes Lane Turnditch Derbyshire DE56 2LU	Pending Consideration
ENF/17/00064	Unauthorised change of use of land to create a horse riding Manege' on land West side of Broadway, Kirk Ireton	Caravan At Valley View Broad Way Kirk Ireton Derbyshire	Pending Consideration
ENF/17/00109	Use as a collection point for County Council vehicles	Wheel Plant Ltd Winney Hill Farm Hob Lane Kirk Ireton Derbyshire DE6 3LG	Pending Consideration
ENF/18/00087	Unauthorised building works. Buildings not in accordance with approved plans - 17/00309/FUL - Erection of 2 no. dwellings	The Smithy Main Road Hulland Ward Derbyshire DE6 3EF	Pending Consideration
ENF/18/00110	Breach of Condition 3 (Lighting Details) and Condition 5 (Restricted Use) of 17/00159/FUL	Common End Farm Bradley Derbyshire DE6 1PL	Pending Consideration
ENF/18/00111	Breach of Condition 9 (Events Management) of 12/00581/FUL	Land Off A517 North Of Hough Park Farm Brunwood Lane Hulland Ward Derbyshire DE6 3EN	Pending Consideration
ENF/18/00112	Unauthorised use of buildings for storage of mowers in connection to an off site business	Hough Park Farm Brunwood Lane Hulland Ward Derbyshire DE6 3EN	Pending Consideration
ENF/18/00151	Non compliance with condition 3 of planning permission 06/00204/VCOND - Affordable housing to be provided onsite in perpetuity	High Meadow Hulland Ward Derbyshire DE6 3EE	Pending Consideration
ENF/18/00152	Plots 6 - 11 of 15/00776/FUL - Dwellings not built in accordance with approved plans	Darne Mews Development Hulland Ward Derbyshire DE6 3GQ	Pending Consideration
ENF/18/00155	Replacement agricultural storage building not built in accordance with permission 15/00616/AGR, construction of car park and building being used as a dog training business	Moorside Farm Moor Lane Kirk Ireton Derbyshire DE6 3JZ	Pending Consideration

ENF/18/00174	Unauthorised change of use of land from agricultural land to storage of builders materials and a large container.	Land East Of Les Ardennes Hulland Ward Derbyshire	Pending Consideration
ENF/18/00181	Unauthorised change of use of holiday cottage to permanent dwelling - Barn to rear of Fairfields, Waterlagg House, Turnditch, Belper, DE56 2LW	Waterlagg House Turnditch Derbyshire DE56 2LW	Pending Consideration
ENF/18/00201	Agricultural storage building and associated access track not being built in accordance with approved planning permission 18/00249/FUL - Alterations to entrance including erection of stone gate piers	Pearl Well Farm Wirksworth Road Kirk Ireton Derbyshire DE6 3JX	Pending Consideration
ENF/18/00206	Unauthorised use of site for wood processing and storage	Poplars Farm Belper Road Hulland Ward Derbyshire DE6 3ED	Pending Consideration
ENF/19/00001	Timber and forestry storage in yard area and planting of trees	Land To The North West Of Smith Hall Farm Smith Hall Lane Hulland Ward Derbyshire	Pending Consideration
ENF/19/00048	Breach of Condition 3 (building to be incidental/ connected to existing farmhouse) of planning permission 15/00538/FUL	Outbuilding At Blackbrook Farm Intakes Lane Turnditch Derbyshire DE56 2LU	Pending Consideration
ENF/19/00069	Dependent relative accommodation not being built in accordance with planning permission 17/00661/FUL - Installation of skylight	Penfold Lodge Penfold Farm Hulland Village Derbyshire DE6 3EQ	Pending Consideration
ENF/19/00077	Siting of 2no. shipping containers	Penfold Farm Hulland Village Derbyshire DE6 3EQ	Pending Consideration

## Masson

ENF/13/00108	Unauthorised works to Grade II Listed Building	Corn Mill Cottage Water Lane Cromford Derbyshire DE4 3QH	Notice Issued
ENF/15/00054	Unauthorised alterations to a Grade II Listed Building.	Rita's Fish Bar 182 South Parade Matlock Bath Derbyshire DE4 3NR	Pending Consideration
ENF/16/00097	Unauthorised engineering operations and the creation of concrete retaining wall.	UK Slipform Ltd Dunsley Mill Via Gellia Road Bonsall Derbyshire DE4 2AJ	Pending Consideration
ENF/17/00022	Erection of two wooden sheds.	The Cottage Puddle Hill Bonsall Derbyshire DE4 2BA	Notice Issued
ENF/17/00147	Breach of Conditions of Planning Permission Reference 11/00504/FUL	Cromford Hill Hand Car Wash 161 The Hill Cromford Derbyshire DE4 3QU	Pending Consideration

ENF/18/00003	Untidy site - Land at Gullivers Kingdom, Adjacent to the upper car park, Matlock Bath, Derbyshire	Gullivers Kingdom Temple Road Matlock Bath Derbyshire DE4 3PG	Pending Consideration
ENF/18/00032	External alterations - Doorway replaced with a window and window covered up	County And Station Hotel 258 Dale Road Matlock Bath Derbyshire DE4 3NT	Notice Issued
ENF/18/00069	Unauthorised engineering works including excavation of stone to land at the rear of the Mill Managers House in Cromford.	Mill Managers House Cromford Mill Mill Road Cromford Derbyshire DE4 3RQ	Notice Issued
ENF/18/00071	Unauthorised works to provide walls and doors to atrium	Cromford Court Derby Road Matlock Bath Derbyshire DE4 3PY	Pending Consideration
ENF/18/00077	Unauthorised change of use of buildings from fully self contained holiday cottage.	The Carriage House Building 24 Cromford Mill Mill Road Cromford Derbyshire DE4 3RQ	Pending Consideration
ENF/18/00078	Unauthorised painting of shop front.	196-198 South Parade Matlock Bath Derbyshire DE4 3NR	Pending Consideration
ENF/18/00088	Erection of fence on top of existing wall	18 North Street Cromford Derbyshire DE4 3RG	Pending Consideration
ENF/18/00136	Various Fencing erected around listed building	3 North Street Cromford Derbyshire DE4 3RG	Pending Consideration
ENF/18/00140	Commencement on site prior to discharging conditions 3, 4 and 7 of planning application 17/01097/FUL	Outbuilding To The Rear Of 14 - 16 Yeoman Street Bonsall Derbyshire DE4 2AA	Pending Consideration
ENF/18/00177	Unauthorised erection of decking in the rear garden of Ranmoor, Waterloo Road, Matlock Bath	Ranmoor Waterloo Road Matlock Bath Derbyshire DE4 3PH	Pending Consideration
ENF/18/00210	Erection of terraces to provide seating area	The Tors Cafe Derby Road Cromford Derbyshire DE4 3RP	Pending Consideration
ENF/19/00014	Erection of advertisement hoardings	Cromford Hill Hand Car Wash 161 The Hill Cromford Derbyshire DE4 3QU	Pending Consideration
ENF/19/00019	Unauthorised painting of shop front (Article 4), and erection of external hanging lights	Gifts Galore 40 - 42 North Parade Matlock Bath Derbyshire DE4 3NS	Pending Consideration
ENF/19/00037	Formation of raised platform and associated retaining walls	21 Castle View Drive Cromford Derbyshire DE4 3RL	Pending Consideration
ENF/19/00038	External re-painting of premises and change of use to A3 use (Cafes and Restaurants)	192 South Parade Matlock Bath Derbyshire DE4 3NR	Pending Consideration
ENF/19/00070	Installation of chimney	The Barn Bonsall Lane Bonsall Derbyshire DE4 2AT	Pending Consideration
ENF/19/00071	Display of flag advertisements	Surf Shack 20 North Parade Matlock Bath Derbyshire DE4 3NS	Pending Consideration

ENF/19/00076	Use of flat above public house as a holiday let accommodation	Barley Mow The Dale Bonsall Derbyshire DE4 2AY	Pending Consideration
ENF/19/00084	Tipping of limestone chippings on former tennis court at The Rock House, Cromford.	The Mews Derby Road Cromford Derbyshire DE4 3RP	Notice Issued
ENF/19/00086	Breach of condition 16 (paint finish and colour of all external joinery) of planning permission DDD/0697/0381/C - Repainting of premises without prior consent to variation	Unit 5 The Riverside South Parade Matlock Bath Derbyshire DE4 3NR	Pending Consideration
ENF/19/00087	Installation of new fascia signage	16 North Parade Matlock Bath Derbyshire DE4 3NS	Pending Consideration

## Matlock All Saints

ENF/16/00101	Unauthorised erection of sheds,chicken enclosures and a "shepherds hut".	High Croft Salters Lane Matlock Derbyshire DE4 2PA	Pending Consideration
ENF/18/00042	Unauthorised alteration of shop frontage	Turkish Delight 57 Dale Road Matlock Derbyshire DE4 3LT	Notice Issued
ENF/18/00081	Erection of two entrance signs	Golding Grange 68 Cavendish Road Matlock Derbyshire DE4 3GY	Pending Consideration
ENF/18/00082	Banner signage above main entrance	Harveys Wine Bar And Cafe 119 Dale Road Matlock Derbyshire DE4 3LU	Pending Consideration
ENF/18/00183	Shared driveway being used for storage in association with a business	Land Between 23 & 27 Cavendish Road Matlock Derbyshire	Pending Consideration
ENF/18/00225	Operation of a brewery	South Barn Wolds Farm Cavendish Road Matlock Derbyshire	Pending Consideration
ENF/19/00044	Erection of verrandah to top of shed	133 Smedley Street Matlock Derbyshire DE4 3JG	Notice Issued
ENF/19/00078	Use of premises as therapeutic centre	The Old Sunday School Bank Road Matlock Derbyshire DE4 3GL	Pending Consideration
ENF/19/00091	Alleged change of use of Band Hall to business/domestic storage facility	Hall Jackson Road Matlock Derbyshire	Notice Issued

## Matlock St Giles

ENF/13/00084	Unauthorised erection of workshop	Phillips Woodware Smuse Lane Matlock Derbyshire DE4 5EY	Notice Issued
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ENF/17/00020	Unauthorised use of land for the storage and stationing of caravans.	Duke William Hotel 91 Church Street Matlock Derbyshire DE4 3BZ	Notice Issued
ENF/17/00117	Unauthorised engineering works, erection of timber posts and the formation of an access	Land And Track Opposite Willersley Lane Plantation Matlock Derbyshire DE4 5JE	Pending Consideration
ENF/18/00031	Erection of signage and second access	Gate Inn The Knoll Tansley Derbyshire DE4 5FN	Pending Consideration
ENF/18/00063	Unauthorised banner sign	Matlock Cricket Club Causeway Lane Matlock Derbyshire DE4 3AR	Pending Consideration
ENF/18/00074	Engineering operations to create hardstanding for cars and associated removal and disposal of materials on private land	The Croft Green Lane Tansley Derbyshire DE4 5FJ	Pending Consideration
ENF/18/00093	Dwellings not being built in accordance with planning permission 16/00779/FUL - Built higher than approved	Land Adjacent To 9 Oak Tree Gardens Tansley Derbyshire	Pending Consideration
ENF/18/00099	Piling of soil and materials	Land And Barn At The Corner Of Thatchers Lane And Alders Lane Tansley Derbyshire	Pending Consideration
ENF/18/00107	Operation of residential dwelling as a bed and breakfast facility with 6 letting rooms	The Chalet Bungalow Butts Drive Matlock Derbyshire DE4 3DJ	Pending Consideration
ENF/18/00132	Replacement windows and non compliance with planning permission 13/00762/FUL	27 - 29 Causeway Lane Matlock Derbyshire	Pending Consideration
ENF/18/00162	Unauthorised tipping of materials/stone	Land Adjacent To 9 Oak Tree Gardens Tansley Derbyshire	Notice Issued
ENF/18/00171	Alterations to access to the A615	Hill Top Farm Alfreton Road The Cliff Tansley Derbyshire DE4 5JU	Pending Consideration
ENF/18/00178	The development is not in accordance with the approved plans.	Land Adjacent To 9 Oak Tree Gardens Tansley Derbyshire	Pending Consideration
ENF/18/00191	Erection of shed structure	Land To The Rear Of White Leas Oaksedge Lane Tansley Derbyshire DE4 5FQ	Notice Issued
ENF/18/00213	Erection of front porch	7 The Rocks Tansley Derbyshire DE4 5ES	Pending Consideration
ENF/19/00003	Landscaping works	Land South West Of 116 Church Street Matlock Derbyshire	Pending Consideration

ENF/19/00008	Use of land for the parking of vehicles, unloading and storage of aggregates, unloading and storage of domestic and business waste and as a personal allotment with a greenhouse	Land To The Rear Of Sunnyside Farm Riber Road Riber Matlock Derbyshire DE4 5JU	Pending Consideration
ENF/19/00011	Erection of lighting on premises	Matlock Gurkha Inn Alfreton Road The Cliff Tansley Derbyshire DE4 5FY	Pending Consideration
ENF/19/00015	Formation of access onto a classified road (A615)	The Cottage Alfreton Road The Cliff Matlock Derbyshire DE4 5EZ	Pending Consideration
ENF/19/00026	Increased size of residential curtilage and installation of septic tank (plot 2 of approved planning permission 16/00779/FUL)	High View 13 Oak Tree Gardens Tansley Derbyshire DE4 5WA	Pending Consideration
ENF/19/00027	Tipping of materials additional to soil including rock, concrete and redundant farm machinery	Land At Junction Of Cunnery Lane And Alders Lane Tansley Derbyshire	Pending Consideration
ENF/19/00032	Scraping off top layer of land at West Yard, Tansley and unauthorised creation of another access onto Thatchers Lane.	Land Off Thatchers Croft Thatchers Lane Tansley Derbyshire	Pending Consideration
ENF/19/00033	Engineering works		Pending Consideration
ENF/19/00041	Garage building being used as a dwelling	Three Lane Ends Whitelea Lane Tansley Derbyshire	Notice Issued
ENF/19/00050	Unauthorised use of residential outbuilding	Kubong-Sa High Tor Road Matlock Derbyshire DE4 3DG	Notice Issued
ENF/19/00080	Engineering works and changes to land levels	64 Tor Rise Matlock Derbyshire DE4 3DL	Pending Consideration
ENF/19/00083	Excavation works and removal of trees	Derwent Treescapes Limited Deep Carr Lane Matlock Derbyshire DE4 3NQ	Pending Consideration

## Norbury

ENF/14/00030	Change of use of land from use for Microlight flying to use for the flying of Biplane aircraft.	Airways Airsports Darley Moor Airfield Darley Moor Ashbourne Derbyshire DE6 2ET	Pending Consideration
ENF/17/00056	Unauthorised engineering works to facilitate access at Old House Farm, Can Alley, Roston, Derbyshire	Old House Farm Can Alley Roston Derbyshire DE6 2EF	Pending Consideration
ENF/17/00137	Change of use of agricultural land for the siting of 2 caravans for human habitation	Shaw Lane Farm Shaw Lane Marston Montgomery Derbyshire DE6 2FJ	Notice Issued
ENF/17/00156	Unauthorised engineering works to create a vehicular access to the holiday lets from the Roston Inn car park	Roston Inn Mill Lane Roston Derbyshire DE6 2EE	Pending Consideration



ENF/18/00089	Siting of a caravan in agricultural field	"Doles" Field Adj. The Elms And Elms Farmhouse Church Lane Cubley Derbyshire	Pending Consideration
ENF/18/00142	Siting of shipping container	Land Off Rodsley Lane Yeaveley Derbyshire	Pending Consideration
ENF/18/00147	Siting of a shipping container		Pending Consideration
ENF/18/00149	Alteration to listed building, enlarged window in gable end to west facing elevation.	Listed Barn At Waldley Manor Waldley Lane Waldley Doveridge Derbyshire	Notice Issued
ENF/18/00218	Use of area of hard standing	Marston Brook Farm Barway Marston Montgomery Derbyshire ST14 5BT	Pending Consideration
ENF/19/00024	Breach of conditions 2 (bat activity surveys) and 3 (mitigation plan) of planning permission 17/01023/FUL	Marston Park Farm Cubley Lane Marston Montgomery Derbyshire DE6 2FG	Pending Consideration
ENF/19/00030	Garage being used for business purposes as a joinery workshop	Doverdale House Audishaw Lane Boylestone Derbyshire DE6 5AE	Pending Consideration
ENF/19/00034	Erection of Building	The Orchard Audishaw Lane Boylestone Derbyshire	Pending Consideration
ENF/19/00060	Breach of Condition 21 (Great Crested Newt mitigation and monitoring) of planning permission 16/00587/FUL	Mushroom Farm Rodsley Lane Yeaveley Derbyshire DE6 2DT	Pending Consideration
ENF/19/00064	Unauthorised addition of second flue pipe protruding from roof slope.	Old Barn Riggs Lane Marston Montgomery Derbyshire DE6 2FD	Pending Consideration
ENF/19/00079	Breach of condition 11 of planning permission 16/00587/FUL - No machinery shall be operated on the site, no process or operations shall be carried out and no deliveries shall be taken at or despatched from the site except between 8:00 and 18:00 hours Monday to Friday and 9:00 and 13:00 on Saturdays or at any time on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.	Mushroom Farm Rodsley Lane Yeaveley Derbyshire DE6 2DT	Pending Consideration
ENF/19/00081	Formation of pond/ lake and installation of ground sourced heating to site	Woodhay Farm Marston Common Marston Montgomery Derbyshire DE6 2EJ	Pending Consideration

## Stanton

ENF/18/00075	Engineering work construction of retaining wall within the curtilage of Grade II listed building	Midland Cottages 1 - 2 Dale Road North Rowsley Derbyshire DE4 2EL	Pending Consideration
ENF/18/00180	Illuminated signage	Unit 10 Unity Complex Dale Road North Darley Dale Derbyshire DE4 2HX	Pending Consideration

ENF/18/00192	Use of barn as dwelling and development of land potentially for equestrian use	Rowsley Barn Chesterfield Road Rowsley Derbyshire DE4 2EG	Pending Consideration
ENF/19/00018	Creation of soil platform	Land Adjacent Rowsley Bar Farm Chesterfield Road Rowsley Derbyshire	Pending Consideration

## Winster And South Darley

ENF/18/00189	Unauthorised building works - Failure to discharge pre-commencement conditions relating to 17/01014/FUL	Thorntrees Oker Road Oker Matlock Derbyshire DE4 2JJ	Pending Consideration
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## Wirksworth

ENF/17/00002	Unauthorised engineering operations to create a raised area	11 New Road Bolehill Derbyshire DE4 4GL	Pending Consideration
ENF/17/00018	Unauthorised works to remove a fire surround in a Grade II Listed Building.	Red Lion Hotel Market Place Wirksworth Derbyshire DE4 4ET	Pending Consideration
ENF/17/00023	Breach of conditions on planning permission 14/00891/FUL	Mount Cook Adventure Centre Porter Lane Middleton By Wirksworth Derbyshire DE4 4LS	Pending Consideration
ENF/17/00051	Unauthorised change of use of garage/store to beauty studio.	The Mews 3 Wirksworth Hall Farm Wash Green Wirksworth Derbyshire DE4 4FD	Pending Consideration
ENF/17/00104	Non compliance with planting condition	Land Adjacent To 11A Little Bolehill Bolehill Derbyshire DE4 4GR	Pending Consideration
ENF/17/00106	Erection of High Fence Posts	2 New Road Bolehill Derbyshire DE4 4GL	Pending Consideration
ENF/17/00127	Engineering operations	11A Little Bolehill Bolehill Derbyshire DE4 4GR	Pending Consideration
ENF/17/00154	Unauthorised change of use of land and buildings	Sleepy Hollow Farm Hopton Lane Wirksworth Derbyshire DE4 4DF	Pending Consideration
ENF/18/00014	New Shop Signage	26 - 27 Market Place Wirksworth Derbyshire DE4 4ET	Pending Consideration
ENF/18/00023	Unauthorised erection of fence	Land At Cromford Road Wirksworth Derbyshire	Pending Consideration
ENF/18/00049	Breach of condition of 16/00420/FUL - Colour of fascia boards on dwellings	Land East Of Derby Road Wirksworth Derbyshire	Pending Consideration
ENF/18/00100	Various alterations to property including the installation of white UPVC windows	7 The Dale Wirksworth Derbyshire DE4 4EJ	Pending Consideration

ENF/18/00126	Removal of front wall and erection of ply wood replacement	Kenwood Cottage Wash Green Wirksworth Derbyshire DE4 4FD	Pending Consideration
ENF/18/00154	Listed building consent and planning permission expired Ref 22.04.2018, no work commenced on site.	3 Gate House Gatehouse Drive Wirksworth Derbyshire DE4 4DL	Pending Consideration
ENF/18/00204	Removal of stone wall to facilitate off road parking	4 New Road Middleton By Wirksworth Derbyshire DE4 4NA	Pending Consideration
ENF/18/00216	Breach of conditions 3 and 4 of planning permission 15/00793/FUL - Conversion and extension of garage to form dependant relative unit.	38 West End Wirksworth Derbyshire DE4 4EG	Pending Consideration
ENF/18/00220	Unauthorised surfacing of car parking areas, provision of car park extension	Haarlem Mill Derby Road Wirksworth Derbyshire	Pending Consideration
ENF/18/00221	Unauthorised Banner Advertisements		Pending Consideration
ENF/18/00227	Alleged unauthorised static caravan on land at The Racecourse, Hardhurst Farm, Ashleyhay, Wirksworth	Gorsey Bank Fields Farm Hey Lane Wirksworth Derbyshire DE4 4AF	Pending Consideration
ENF/19/00004	Installation of hot tub to front of property	Stowe Cottage 4 New Road Middleton By Wirksworth Derbyshire DE4 4NA	Pending Consideration
ENF/19/00005	Unfinished Wall	Land Opposite 86 Greenhill Wirksworth Derbyshire	Pending Consideration
ENF/19/00010	Unauthorised replacement window - The Gate House	3 Gate House Gatehouse Drive Wirksworth Derbyshire DE4 4DL	Pending Consideration
ENF/19/00020	Alterations to balcony	Farthing House Greenhill Wirksworth Derbyshire DE4 4EN	Pending Consideration
ENF/19/00029	Internal works to listed building	4 St John Street Wirksworth Derbyshire DE4 4DR	Pending Consideration
ENF/19/00036	Formation of raised deck and incorporation of land into domestic curtilage	14 Water Lane Middleton By Wirksworth Derbyshire DE4 4LY	Pending Consideration
ENF/19/00059	Siting of a static caravan	Land To East Of Kings Lot Wood Longway Bank Whatstandwell Derbyshire	Notice Issued
ENF/19/00072	Rear timber window to rear replaced with UPVC window	9 Baileycroft Mews Cemetery Lane Wirksworth Derbyshire DE4 4FZ	Pending Consideration
ENF/19/00074	Erection of 2m high boundary fence	The Old Tape Works Speedwell Mill Millers Green Wirksworth Derbyshire DE4 4BL	Pending Consideration

ENF/19/00075

Unauthorised change of use of agricultural land for the erection of a timber cabin/caravan for use as a dwelling, on land to The West Of Millers Green Farm, Callow Lane, Wiksworth.

Farm Buildings To The West Of Millers Green Farm Callow Lane Wirksworth Derbyshire

Notice Issued

**Total Open Cases**

**207**

# Enforcement Investigations Closed

In the 6 Months Prior to 07/06/2019



## Ashbourne North

ENF/17/00046	Unauthorised engineering comprising of excavations and leveling of land to the rear of 71 Park Avenue.	71 Park Avenue Ashbourne Derbyshire DE6 1GB	Justification from Officer	25/03/2019
ENF/18/00011	Works to roof not done in accordance with approved plans (Planning permission reference number. 17/00045/FUL)	Blacks Cottage Coopers Close Ashbourne Derbyshire DE6 1EQ	Justification from Officer	12/12/2018
ENF/18/00066	Erection of gazebo style structure being used as a garage	52 St Oswald Crescent Ashbourne Derbyshire DE6 1FS	Complied Voluntarily	18/12/2018
ENF/18/00130	Unauthorised erection of fence in excess of 1m in height adjacent to vehicular highway and unauthorised erection of timber structure within 2m of boundary, exceding 2.5m in height.	16 Beresford Avenue Ashbourne Derbyshire DE6 1FW	Complied Voluntarily	24/05/2019
ENF/18/00144	Breach of pre-commencement conditions relating to planning permission 15/00425/FUL - conditions 4 and 6, and listed building consent 15/00426/LBALT - conditions 6, 7, 8, 13, 14 and 15.	Grey House 61 Church Street Ashbourne Derbyshire DE6 1AJ	Not in the Public interest to pursue	12/12/2018
ENF/18/00194	Change of use of former toilet block to A2 Use (professional and financial services) at ground floor and apartment at first floor	1 Union Street Ashbourne Derbyshire DE6 1FG	Justification from Officer	12/03/2019
ENF/18/00205	Installation of projecting coffee cup and beans to front window	Costa 14 St John Street Ashbourne Derbyshire DE6 1GH	Complied Voluntarily	11/02/2019

## Ashbourne South

ENF/18/00018	Breach of Condition 1 of Planning Application Reference No. 17/00828/FUL	47 South Street Ashbourne Derbyshire DE6 1DP	Complied Voluntarily	11/12/2018
ENF/18/00115	Breach of Condition 4 (Working Hours) of Planning Application No. 17/00250/REM	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Justification from Officer	21/01/2019
ENF/18/00120	Soil Dust from Development site - Breach of Condition 3 of 15/00319/OUT and Condition 7 of 17/00250/REM	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Justification from Officer	21/01/2019

ENF/18/00150	Vibration caused by construction of development 17/00250/REM	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Justification from Officer	21/01/2019
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## Brailsford

ENF/18/00159	Unauthorised erection of steel framed building on land at Bridge Cottage, Yeldersley Lane, Ednaston	Bridge Cottage Yeldersley Lane Ednaston Derbyshire DE6 3AX	Planning Application Received	09/01/2019
ENF/18/00185	Erection of sign and car park barrier	Ednaston Park Painters Lane Ednaston Derbyshire DE6 3FA	Planning Application Received	08/05/2019

## Carsington Water

ENF/17/00041	Unauthorised change of use of land for the stationing of a static caravan for the purpose of human habitation	Barn At Arm Lees Farm Ryder Point Road Wirksworth Derbyshire	Complied Voluntarily	01/04/2019
ENF/18/00016	Unauthorised demolition/conversion of barn.	Barn At Arm Lees Farm Ryder Point Road Wirksworth Derbyshire	Complied Voluntarily	05/04/2019
ENF/18/00057	Erection of fence to front of property in excess of 2 metres in height	Barney's Cottage Main Street Hognaston Derbyshire DE6 1PR	Planning Application Received	25/03/2019
ENF/18/00195	Unauthorised engineering works to create a new agricultural vehicular access onto a classified Road from land opposite Carslow Farm, Brassington	Carslow Farm Ashbourne Road Brassington Derbyshire DE4 4DB	Planning Application Received	26/03/2019

## Clifton And Bradley

ENF/18/00053	Erection of garage, in excess of 2.5m in height adjacent to a boundary and the creation of a boundary wall	The Cottage Mill Lane Shirley Derbyshire DE6 3AR	Notice complied with	18/12/2018
ENF/19/00055	Land clearance works including felling of trees and works to hedgerow	Land At Wyaston Road Ashbourne Derbyshire	Justification from Officer	29/04/2019

## Darley Dale

ENF/18/00135	Garage not being built in accordance with 18/00457/CLPUD	St Elphins Cottage Blind Lane Hackney Derbyshire DE4 2QE	Justification from Officer	25/03/2019
ENF/18/00224	Erection of sign and possible business activity	Fintry House 18A Old Hackney Lane Hackney Derbyshire DE4 2QL	Planning Application Received	19/12/2018
ENF/19/00009	Formation of a equestrian menage and engineering works being carried out to rear of property	Morfu Farley Hill Matlock Derbyshire DE4 5LT	Justification from Officer	03/06/2019
ENF/19/00054	Alleged change of use of land. Corner of Dale Road and Moorledge	158 Bakewell Road Matlock Derbyshire DE4 3AZ	Complaint Unfounded	19/03/2019

## Doveridge And Sudbury

ENF/18/00029	Erection of Porch	17 West Drive Doveridge Derbyshire DE6 5NG	Justification from Officer	07/05/2019
ENF/18/00037	Change of Use of shop / dwelling to Nursery (Use Class D1)	31A High Street Doveridge Derbyshire DE6 5NA	Planning Application Received	05/03/2019
ENF/18/00168	Swale forming part of Doveridge Park Development (Planning application reference no. 17/00092/REM) being filled in and development closer to property boundary then was approved	Land Off Derby Road Doveridge Derbyshire	Complied Voluntarily	04/04/2019
ENF/19/00052	Erection of summerhouse	3/ 3A Alms Road Doveridge Derbyshire DE6 5JZ	Justification from Officer	15/03/2019

## Hulland

ENF/19/00039	Breach of conditions' relating to planning permission 16/00832/OUT - Outline application for residential development and associated access. And 18/01237/REM - Approval of reserved matters for the erection of 22 dwellings (outline application 16/00832/OUT)	Land East Of Les Ardennes Hulland Ward Derbyshire DE6 3EE	Complied Voluntarily	26/03/2019
ENF/19/00051	Use of extension as seperate dwellinghouse	The Cottage Poplars Farm Belper Road Hulland Ward Derbyshire DE6 3ED	Complied Voluntarily	07/05/2019
ENF/19/00058	Breach of conditions 3 (permitted development rights restriction) and 7 (unobstructed parking and manoeuvring) of planning permission 01/04/0296	Buxton Hall Cottage And Hazel Cottage Main Street Kirk Ireton Derbyshire DE6 3JP	Complaint Unfounded	04/06/2019

## Masson

ENF/16/00041	Unauthorised installation of plastic windows and door.	2,4,6 North Parade Matlock Bath Derbyshire DE4 3NS	Notice complied with	22/01/2019
ENF/17/00061	Unauthorised works to a Listed Building	RIVA Rose Cottage 124 - 126 North Parade Matlock Bath Derbyshire DE4 3NS	Complied Voluntarily	06/06/2019
ENF/17/00150	Breach of condition 2 relating to planning permission 17/00104/FUL - Single storey extension, 1 Water Lane, Cromford, Derbyshire, DE4 3QH.	1 Water Lane Cromford Derbyshire DE4 3QH	Justification from Officer	25/03/2019
ENF/18/00182	Unauthorised painting of a listed building	Rose Cottage 124 - 126 North Parade Matlock Bath Derbyshire DE4 3NS	Planning Application Received	06/06/2019
ENF/18/00188	Unauthorised painting on the "Boat Inn" at Cromford	Boat Inn Scarthin Cromford Derbyshire DE4 3QF	Complied Voluntarily	31/01/2019

ENF/18/00211	Unauthorised building of 3 bay lambing shed on land at Woodseats Farm, Cromford	Woodseats Farm Willersley Lane Cromford Derbyshire DE4 5JG	Planning Application Received	18/04/2019
ENF/19/00012	Breach of condition 6 (opening hours) of planning application 11/00504/FUL	Cromford Hill Hand Car Wash 161 The Hill Cromford Derbyshire DE4 3QU	Justification from Officer	29/04/2019

## Matlock All Saints

ENF/17/00043	Engineering operations to create a raised patio area.	161 Smedley Street Matlock Derbyshire DE4 3JG	Justification from Officer	09/01/2019
ENF/18/00048	Breach of condition of planning permission 16/00776/FUL - Appearance of front boundary wall	Land Adjacent Matlock Golf Club Chesterfield Road Matlock Derbyshire	Justification from Officer	14/01/2019
ENF/18/00104	Unauthorised erection of an extension and associated retaining works	Formerly 46 Jackson Road Matlock Derbyshire DE4 3JQ	Complied Voluntarily	04/01/2019
ENF/18/00223	Boundary Dispute	Wellfield Cottage Rutland Street Matlock Derbyshire DE4 3GN	Justification from Officer	15/02/2019
ENF/19/00022	Alleged unauthorised building works to rear of 13 Jackson Road	Gaymer Cottage 13 Jackson Road Matlock Derbyshire DE4 3JQ	Complaint Unfounded	28/01/2019

## Matlock St Giles

ENF/16/00053	Unauthorised access off Riber Road.	Brookdale Riber Road Lea Derbyshire DE4 5JQ	Notice complied with	25/03/2019
ENF/18/00044	Breach of condition 7 of planning permission 15/00566/FUL	Hilltops View Garage Courtyard Hazel Grove Matlock Derbyshire	Complied Voluntarily	14/01/2019
ENF/18/00080	Alleged unauthorised building works at 44 The Knoll, Tansley	44 The Knoll Tansley Derbyshire DE4 5FN	Justification from Officer	05/03/2019
ENF/18/00097	Erection of unauthorised retaining wall	Land East Of Chesterfield Road / South Of Quarry Lane Matlock Derbyshire	Complied Voluntarily	10/05/2019
ENF/18/00146	Unauthorised extensions to Public House	Gate Inn The Knoll Tansley Derbyshire DE4 5FN	Planning Application Received	24/04/2019
ENF/19/00042	Ground clearance/ engineering works including the felling of trees	Land To The Rear Of 225 Starkholmes Road Matlock Derbyshire	Complaint Unfounded	01/03/2019

## Norbury

ENF/17/00113	Unauthorised engineering works to facilitate what appears to be a hard standing area for the base of a garage.	Old Barn Riggs Lane Marston Montgomery Derbyshire DE6 2FD	Complied Voluntarily	26/03/2019
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ENF/18/00102	Office accommodation being used as a residence, business operating outside of opening hours, non-compliance with agreed parking arrangements and bay structure erected in car park	Woolliscroft (Garage Services) Former Abattoir Green Lane Norbury Derbyshire DE6 2EL	Planning Application Received	07/12/2018
ENF/18/00141	Breach of condition 6 relating to planning permission 17/01087/FUL - Subdivision of farmhouse to form two dwellings including associated external alterations.	Lower House Farm Can Alley Roston Derbyshire DE6 2EF	Justification from Officer	12/12/2018
ENF/18/00158	Breach of condition 2 and 4 of planning permission 15/00299/FUL - Partial change of use of agricultural storage building to boarding kennels and associated building operations and car parking area	Honeysuckle Farm Shirley Lane Rodsley Derbyshire DE6 3AQ	Complied Voluntarily	20/02/2019
ENF/19/00090	Trailers parked blocking the southern entrance and overgrown headrow blocking the northern stile	Land To The South Of West View Shields Lane Roston Derbyshire	Complaint Unfounded	04/06/2019

## Stanton

ENF/18/00212	Erection of additional stabling, excavation works, installation of a TV aerial to building and site being used for equestrian purposes rather than agricultural purposes	North Park Farm Whitworth Road Darley Dale Derbyshire DE4 2HJ	Complaint Unfounded	10/12/2018
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## Winster And South Darley

ENF/18/00122	Unauthorised erection of garage	Stags House 35 Main Road Darley Bridge Derbyshire DE4 2JY	Planning Application Received	07/03/2019
ENF/19/00047	Breach of Condition 14 of planning permission 17/00732/FUL (Construction work hours)	9 Eversleigh Rise Darley Bridge Derbyshire DE4 2JW	Complied Voluntarily	27/03/2019

## Wirksworth

ENF/17/00140	Unauthorised building works to raise the height of building approved under 16/00536/FUL	5 Cromford Road Wirksworth Derbyshire DE4 4FH	Not in the Public interest to pursue	14/01/2019
ENF/17/00153	Unauthorised change of use of agricultural land for the siting of a mobile home and two shipping containers.	Longway Bank Wood Longway Bank Whatstandwell Derbyshire	Planning Application Received	07/02/2019
ENF/18/00157	Erection of decking area	Flats At Mountain View The Croft Greenhill Wirksworth Derbyshire DE4 4EN	Complied Voluntarily	24/01/2019
ENF/19/00023	Alleged change of use of dwelling to commercial scaffolding store.	The Old Police Station Oat Hill Wirksworth Derbyshire DE4 3AQ	Complaint Unfounded	31/01/2019

ENF/19/00035	Erection of fence between driveways	4 Willows Terrace Cromford Road Wirksworth Derbyshire DE4 4JF	Justification from Officer	12/03/2019
ENF/19/00053	Alleged unauthorised change of use of land and works being carried out without planning permission	Land Adjacent Middleton Road Wirksworth Derbyshire	Complaint Unfounded	18/03/2019
ENF/19/00057	Erection of fence to front between properties	7 Churchill Avenue Middleton By Wirksworth Derbyshire DE4 4NG	Complied Voluntarily	24/05/2019

**Total Closed Cases 63**

**PLANNING APPEAL – PROGRESS REPORT**

REFERENCE	SITE/DESCRIPTION	TYPE	DECISION/COMMENT
Southern			
17/00752/FUL	The Manor House, Church Street, Brassington	WR	Appeal being processed
18/00155/CLEUD	Poplars Farm, Hulland Ward	IH	Appeal dismissed - copy of appeal decision attached
18/00662/LBALT	Brook Cottage, Pethills Lane, Kniveton	WR	Appeal dismissed – copy of appeal decision attached
18/00696/FUL	Norman House, Painters Lane, Brailsford	WR	Appeal being processed
ENF/15/00024	Land at Blackbrook Lodge Caravan & Camping, Intakes Lane, Turnditch	PI	Appeal dismissed – notice upheld with corrections
18/00140/FUL	Land to the north west of Smith Hall Farm, Smith Hall Lane, Hulland Ward	WR	Appeal dismissed - copy of appeal decision attached
18/00356/PDP	The Old Flower Warehouse, Station Yard, Watery Lane, Clifton	WR	Appeal dismissed - copy of appeal decision attached
18/00286/FUL	Land to the rear of “Whiteleas”, Oaksedge Road, Tansley	WR	Appeal being processed
18/00584/FUL	Myddleton House, North Avenue, Ashbourne	HH	Appeal allowed – copy of the appeal decision attached
18/00883/FUL	Keepers Field, Bullhill Lane, Hillcliff Lane, Turnditch	IF	Appeal being processed
18/01015/FUL	3 Miners Arms Cottages, School Lane, Carsington	HH	Appeal dismissed - copy of appeal decision attached
16/00872/OUT	Land east of Les Ardennes, Mugginton Lane End, Hulland Ward	IH	Appeal dismissed - copy of appeal decision attached
18/00859/FUL	1 Union Street, Ashbourne	WR	Appeal being processed
18/00801/FUL	Round Oak Farm, Slade Lane, Mercaston	WR	Appeal being processed

18/00675/FUL	Land adjacent to Hulland House, Smith Hall Lane, Hulland Ward	WR	Appeal being processed
18/01433/FUL	Newlands Farm, Longford, Ashbourne	WR	Appeal being processed
Central			
18/01074/FUL	Willow Cottage, Clatterway, Bonsall	HH	Appeal dismissed - copy of appeal decision attached
18/00547/REM	North Park Farm, Whitworth Road, Darley Dale	WR	Appeal being processed
18/00922/FUL	Matlock Ford, 31-33 Causeway Lane, Matlock	PI	Appeal withdrawn
17/00125/FUL	Red Lion Hotel, Market Place, Wirksworth	IH	Appeal being processed
17/00126/LBALT	Red Lion Hotel, Market Place, Wirksworth	IH	Appeal being processed
18/00838/FUL	Ox Close Farm, Carr Lane, Riber	WR	Appeal being processed
19/00148/OUT	Penzer House, Dale Road South, Matlock	WR	Appeal being processed
18/01328/FUL	Bent Farm, Farley Hill, Matlock	WR	Appeal being processed
19/00168/FUL	Building to rear of Doone Cottage, Ladygrove Road, Two Dales	WR	Appeal being processed

WR - Written Representations

IH - Informal Hearing

PI – Public Inquiry

LI - Local Inquiry

HH - Householder

**OFFICER RECOMMENDATION:**

That the report be noted.



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## Appeal Decision

Hearing held on 26 February 2019

Unaccompanied site visit made on 25 February 2019

by J A Murray LLB (Hons), Dip. Plan Env, DMS, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4 March 2019

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Appeal Ref: APP/P1045/X/18/3202007

The Cottage, Poplars Farm, Belper Road, Hulland Ward, DE6 3ED

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Peter Bull and Mrs Sara Bull against the decision of Derbyshire Dales District Council.
  - The application Ref 18/00155/CLEUD, dated 8 February 2018, was refused by notice dated 18 April 2018.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is **"use of building as an independent dwellinghouse."**
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. I visited the site unaccompanied on 25 February 2019. From the public highway, I was able to see the exterior of the building and the plot on which it stands. The parties agreed that it was not necessary for me to make an accompanied site visit, as the relevant details of the interior of the building were agreed and shown on plans and the appeal would turn on the history of the use and an analysis of the legal position.

### Background

3. Planning permission Ref 03/11/0087 (the planning permission) was granted for **"two storey/single storey front, side and rear extensions"** to the appellants' house. Construction work was completed in 2005 and, externally, the resulting building looked like that shown in the plans approved under the planning permission. Indeed, the only difference internally was the omission of a door linking the new structure to the appellants' original house.
4. The Council maintains that the building is substantially the same as that authorised by the planning permission. The appellants contend that the planning permission was not implemented, as the new building was a separate dwelling from the outset and therefore not covered by the description **"extensions" in the planning permission.**

5. However, whichever analysis is correct, the parties agree that the building operations themselves are lawful anyway; either they were authorised by the planning permission or, by section 171B(1) of the 1990 Act, they had become lawful by the date of the LDC application, having been substantially completed more than 4 years earlier. There was no condition on the planning permission requiring the development to be carried out in complete accordance with the plans but, in any event, the 10-year period applied by section 171B(3) in relation to breaches of condition had also elapsed.
6. The LDC application concerned the use of the building, not the operational development. However, the appellants acknowledge that there was never any change of use of the 'extension.' They say that building, which they refer to as 'The Cottage', has been used in the same way (as separate dwelling in their view) since it was constructed. There has therefore been no change of use of a building to use as a single dwellinghouse, which would attract a 4-year immunity period under section 171B(2). Furthermore, it cannot be said that a building previously used as a single dwellinghouse became used as two separate dwellinghouses, involving development by virtue of section 55(3)(a), because The Cottage is a new building and not part of the building previously used as a single dwellinghouse.

#### Main Issue

7. In cases of this nature, the issue is **whether the Council's refusal of an LDC** was well-founded. Against the background outlined above, this will turn on whether the appellants have proved on the balance of probability that the use of the building involved a material change of use of the land, which occurred on or before 8 February 2008 and that the use then continued for 10 years thereafter, without significant interruption.

#### Reasons

8. I sent a pre-hearing note to the parties which, aside from setting out summaries of their cases and suggesting main issues, included some statements concerning the relevant law and both parties agreed that those statements were correct. On that basis, the appellants contended during the hearing that there had been a material change of use when the appeal building was first constructed and occupied in 2005, because this had involved the creation of a new planning unit (PU) through subdivision of the original PU.
9. I have already indicated that section 55(3)(a) of the 1990 act does not apply, but whether or not the subdivision of a PU necessarily results in a material change of use, I will first consider if a separate PU was created. In this regard, my pre-hearing note drew **the parties' attention to** *Uttlesford DC v White* [1992] JPL 171, which in turn cites the leading case on the identification of the PU, namely *Burdle v SSE* [1972] 1 WLR 1207.
10. **Though attached to the appellant's original house, there is no dispute that,** since it was constructed, the appeal building has had all the facilities necessary for day to day living, including kitchen, bathroom, living room and bedroom facilities and there has never been an internal door linking it to the original house. However, it was initially **intended for occupation by Mr Bull's mother.** As she sadly died before the building was completed, it was occupied from the **start by Mrs Bull's elderly mother,** Mrs Allman and, for the first 5 or 6 years,

her partner as well. Mrs Allman lived there until she passed away in 2017 at the age of 91.

11. Mrs Bull explained that her mother had been an independent lady. Whilst Mrs Bull helped with ordering her shopping, Mrs Allman had done her own cooking, cleaning and laundry. Mrs Bull would pop in for a cup of tea with her mother and they saw each other daily, but Mrs Bull was working full time and they did not spend large amounts of time together. When **Mrs Allman's** health began to fail in 2015, Mrs Bull organised assistance from outside agencies and Mrs Allman maintained a high degree of independence. She paid for her own heating oil supply, telephone and television license and the appellants arranged for the appeal property to have its own address and separate Council Tax liability.
12. Nevertheless, the appeal building was occupied by a member **of the appellants'** family from the date of its completion in 2005 until 2017. Although Mrs Bull said her mother paid **"a little rent on an informal basis,"** there was no separate ownership or tenancy of the appeal building. Furthermore, though not decisive, the shared external amenity space, with no separate delineation, reflected the informality of the arrangement. The appellants' statement that they would have installed an internal linking door, had that become necessary, also underlines the **character of Mrs Allman's occupation.**
13. With regard to *Burdle*, and notwithstanding the extent of Mrs Allman's independence, the appeal building was not an entirely separate unit of occupation. Furthermore, though the building itself provided some physical separation from the rest of the appellants' **property**, functionally, it was not occupied for substantially different and unrelated purposes; it provided additional accommodation for a family member. It may be that the occupier of the **"annexe" in Uttlesford** was intended to share her living activity in company with the family in the main dwelling, even though that annexe was a detached building. Nevertheless, when commenting on the self-contained nature of the annexe, the court said:

*"In the end it amounts to no more than the fact that that the elderly relative to be accommodated would have her own bedroom, bathroom and, I assume lavatory, small kitchen, somewhere to sit and her own front door. To that extent she will be independent from the rest of her family. I find no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling."*

14. For the reasons given, I am not persuaded as a matter of fact and degree that the appeal building became a separate PU. However, even if that is wrong, no authority was provided to indicate that the subdivision of the original PU would necessarily give rise to a material change of use. Section 55(3)(a) does not apply and it cannot simply be extended to this situation. Again, whether there has been a material change of use is a question of fact and degree.
15. Clearly, the use of the original PU was residential and the use of the new, additional PU would similarly be residential. This contrasts with the position in *Welwyn Hatfield BC v SSCLG and Beesley* [2011] UKSC 15, to which I referred during the hearing. In that case, Lord Mance suggested that, although Mr **Beesley's building** was immune from enforcement action and it had been constructed and used from the outset as a dwelling, the use could still be the

subject of enforcement action within 10 years. However, in that case, there had been a change of use of the land from agricultural to residential.

16. When considering the materiality of a change of use, it is appropriate to take account of any planning consequence and on or off-site impacts. However, there are no near neighbours and the appellants were unable to identify any on or off-site impacts, or other planning consequences. Indeed, the appellants acknowledged that there would have been nothing to indicate that the appeal building was separately occupied and there is no suggestion that there has been any fundamental change in the character of the use.

#### Conclusion

17. Although there would have been no dispute between the parties on the question of continuity of the use, the appellants have not proved on the balance of probability that the use of the building involved a material change of use of the land on or before 8 February 2008. Accordingly, the Council's **refusal** of an LDC was well-founded and the appeal must fail.

#### Other matters

18. I am aware that, on 13 June 2018, planning permission Ref 18/00448/FUL was **granted for the use of the appeal building as a "holiday let."** However, this can have no bearing on my decision, which concerns the lawfulness of use as at the date of the LDC application.

*J A Murray*

INSPECTOR



## APPEARANCES

### FOR THE APPELLANT:

A R Yarwood Dip TP MRTPI of Roger Yarwood Planning Consultant Ltd  
Sara Bull  
Peter Bull

### FOR THE LOCAL PLANNING AUTHORITY:

Gareth Griffiths MRTPI, Senior Planning Officer for Derbyshire Dales District Council

### DOCUMENTS SUBMITTED AT THE HEARING

1 Notice of hearing



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## Appeal Decision

Site visit made on 5 February 2019

by Elaine Benson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2019

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Appeal Ref: APP/P1045/Y/18/3210841

Brook Cottage, Pethills Lane, Kniveton DE6 1JN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Moffatta and Griffiths against the decision of Derbyshire Dales District Council.
  - The application Ref 18/00662/LBALT, dated 15 June 2018, was refused by notice dated 23 August 2018.
  - The works proposed are alterations to north elevation of 20<sup>th</sup> century rear wing.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The works for which consent is sought have already been carried out following the grant of listed building consent for a more comprehensive scheme. The implemented and approved works differ in respect of the north elevation of the rear wing. Based on the evidence before me, I **share the Council's view** that the works as carried out are materially different from those that were approved.
3. Having regard to sections 16 and 66 of the above Act, the main issues in this case are whether the works preserve the special architectural or historic interest of this listed building, whether they preserve or enhance the character or appearance of the Kniveton Conservation Area (CA), including the effect of the works on the significance of the designated heritage assets; and if any harm has been caused, whether that is outweighed by public benefits.

### Reasons

4. The appeal property, Brook Cottage, is a two-storey Grade II listed, late 17<sup>th</sup> century house with a later single-storey wing to the south. It was also extended to the west **in the 1970's (according to the Council's evidence)**. The building is of the strong and typically robust architectural language and simplicity of form and shape of its period. The house comprises coursed limestone and contains flush and chamfered mullion windows with carved stone window dressings. The high ratio of wall to openings is particularly notable.
5. **The 1970's** two-storey wing extension comprises walls of non-traditional **'Davey' block**, rough undressed limestone in a matrix of mortar, which was in common use at the time. The upper floor is of mainly blank walling. Although of poorer quality than the house, its predominantly solid design and simple form respect its architectural character. The front and side elevations of the

house are particularly prominent within the CA and the quality and nature of the late 17th century building is apparent. The appeal elevation is clearly visible across the open parking area to the side of the house. In my view the significance of Brook Cottage therefore lies, in part, in the detailing and style of the house.

6. The new doorway opening has been made excessively wide to accommodate side-lights which are not a traditional architectural feature for the style of the house. They appear as an overtly modern and overly fussy addition to the listed building which does not reflect its robust and solid character and appearance. The side-lights disrupt the ratio of wall to openings and detract from the character and appearance of Brook Cottage on a prominent elevation. The incongruous design detail draws attention to the non-traditional architectural feature which are out of context and character with the local vernacular housing and the CA.
7. There is no doubt that Brook Cottage has undergone many alterations over time to satisfy developing technology, to reflect changing fashions and to provide acceptable social and housing conditions etc. However, whilst it can sometimes be preferable to show a clear design distinction between the historic part of a building and a more modern extension, the unsympathetic design of these implemented works to the doorway cannot reasonably be considered as satisfactorily demonstrating the evolution of the building.
8. The position of and number of windows to the right of the door have changed from the previously approved scheme. A single window has been inserted into the original door opening, rather than 2 as previously approved. The window matches the design of the replacement window to the left of the door. The general door and window arrangement do not harm the character or appearance of the listed building.
9. The construction of the replacement window frames comprises thicker and heavier sections and sizing resulting from the use of double glazing. This contrasts with the finely formed and detailed window frames in the windows of the house. However, they are of an entirely different mullion design and within a distinct context. Furthermore, they are similar in design to the former modern windows and moreover reflect the window design that was previously approved by the Council. In my judgement the recently installed extension windows have a neutral impact on Brook Cottage and do not harm the significance, character or appearance of the listed building.
10. I conclude that the harm caused by the new door-way amounts to less than substantial harm to the significance of the designated heritage assets. The appellants took a contrary view and no offsetting public benefits were identified. The house is already in residential use and it could not reasonably be argued that the appeal proposal is required to secure the optimum use of Brook Cottage.
11. Overall, I conclude that the works in respect of the doorway fail to preserve the special architectural or historic interest of this listed building and do not preserve or enhance the character or appearance of the CA, thereby causing less than substantial harm to the significance of the heritage assets. In the absence of any public benefits to outweigh this harm I conclude the works would conflict with the National Planning Policy Framework.

12. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

*Elaine Benson*

INSPECTOR



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## Appeal Decision

Inquiry Held on 21 May 2019

Site visit made on 21 May 2019

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2019

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Appeal Ref: APP/P1045/C/18/3196593

Land at Blackbrook Lodge Camping & Caravan Site, Intake lane, Turnditch, Derbyshire DE56 2LU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Victor Hyland against an enforcement notice issued by Derbyshire Dales District Council.
  - The enforcement notice was issued on 24 January 2018.
  - The breach of planning control as alleged in the notice is the unlawful use of the buildings outlined and hatched green on the plans attached to the notice as a dwellinghouse (Use Class C3).
  - The requirements of the notice are to permanently cease the use of the buildings as a dwellinghouse (Use Class C3).
  - The period for compliance with the requirements is 30 days.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: the appeal is dismissed and the notice is upheld as corrected and varied

### Procedural matters

1. **The notice alleges the 'unlawful use'** of the buildings as a dwellinghouse. Three points flow from this.
2. Firstly, **'use' is not of itself development as defined in Section 55(1) of the Town and Country Planning Act 1990 (the 1990 Act)**. The definition used in the 1990 Act is the making of any material change in the use of any buildings or **other land. I shall therefore correct the notice to allege 'a material change of use.....'**. Notwithstanding this defect, it is clear that the appellant has understood the meaning of the notice and I am therefore satisfied that I can do so without causing injustice.
3. Secondly, Section 171A of the 1990 Act, which sets out expressions used in connection with enforcement, states that a breach of planning control is constituted by the carrying out of development without the required planning permission. In the interest of consistency with the wording of the 1990 Act, I shall **replace the term 'unlawful' at paragraph 3 of the notice with the term 'without planning permission'**. I am satisfied that no injustice would be caused by so doing.
4. Thirdly, **the notice refers to 'buildings' in the plural**, a description that no doubt derives from its original means of construction through the joining together of

two separate structures. In practice, the resultant structure is used as a single building and I shall correct the notice to reflect that. I am again satisfied that no injustice would be caused by so doing.

5. The appeal was originally lodged on several grounds that included grounds (e) and (f). The appeal on ground (e) was withdrawn at the Inquiry. As originally submitted, **the appellant's appeal on ground (f) was** confined to, in summary, that the notice should allow for the reversion of the building to residential use as holiday accommodation. Having reflected on it beforehand, the appellant voluntarily conceded at the Inquiry that this would be beyond the scope of an appeal on ground (f) but considered that the appeal on ground (f) could be subsumed into the appeal on ground (a), given that a residential use as holiday accommodation could potentially fall into the same Use Class (Use Class C3) as the use attacked by the notice.
6. Section 177(1)(a) of the 1990 Act provides that, on determination of an appeal under Section 174, the Secretary of State may grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole *or any part* of those matters or in relation to any part of the land to which the notice relates (my emphasis). Applying the wording of Section 177(1)(a) to the facts of this case, it is first necessary to consider the precise breach of planning control alleged in the notice. In this case, the breach of planning control is specifically stated as use of the building a dwellinghouse (Use Class C3).
7. To my mind, even though in the same Use Class, the use as holiday accommodation cannot be said to constitute any part of the breach of planning control alleged in the notice. This is evidenced by the reasons for issuing the notice set out in paragraph 4 of the notice, which relate solely to the absence (**in the Council's view**) of an essential functional need for any person to be permanently resident on the site. The use of the words 'essential functional need' implies a working association of a person or persons with the land in question, rather than one that is leisure based. Moreover, the use of the words '**permanently resident**' in that paragraph clearly indicates that the Council was not contemplating any use as holiday accommodation when issuing the notice.
8. The construction of the reason for issuing the notice is such that, in my view, holiday accommodation forms no part of the matters stated in the enforcement notice as constituting a breach of planning control. I therefore consider that it is not open to me to grant planning permission for use of the building as holiday accommodation under the provisions of Section 177(1)(a) of the 1990 Act.
9. I am, however, mindful that case law has established that an Inspector has a duty to consider any '**obvious alternative**' which would overcome the planning difficulties at less cost and disruption to the appellant than compliance with the notice<sup>1</sup>. The courts have made it clear that this duty is equally capable of applying to consideration under ground (a) of a point raised under ground (f)<sup>2</sup>, which is precisely the situation in this case. I must therefore go on to consider whether use of the building as holiday accommodation is an obvious alternative in the context of *Tapecrowne* and *Moore*.

<sup>1</sup> *Tapecrowne Ltd v First Secretary of State* [2006] EWCA Civ 1744; [2007] 2 P & CR 7

<sup>2</sup> *Moore v Secretary of State v Secretary of State for Communities and Local Government* [2013] JPL192

10. The first point to make is that there is no extant planning permission, conditional or otherwise, for use of the building as holiday accommodation. Consequently, if planning permission was to be granted for a material change of the use of the building to holiday accommodation, it would be for an entirely new use. Even though such a planning permission could be made conditional to prevent subsequent use of the building as a dwellinghouse, it would require consideration of a different set of policies in the development plan for the purposes of Section 38(6) of the 1990 Act. Although those policies and the reasons that underpin them were touched upon briefly in evidence, this only served to reinforce the fact that the material considerations relating to use of the building as holiday accommodation would be significantly different to those arising from consideration of the use alleged in the notice. By way of example, the character of the use, the need for tourist accommodation in the area and the suitability of the location for that purpose would all need to be considered.
11. I therefore conclude that the use of the building as holiday accommodation would not be an obvious alternative in the context of *Tapecrowne* and *Moore*, and for that reason I have not considered it further. It would of course be open to the appellant to submit a planning application for the material change of use of the building to holiday accommodation, and that has formed part of my reasoning in relation to the appeal on ground (g).
12. All evidence at the Inquiry was given under oath by way of affirmation.  
  
The appeal on ground (d)
13. The appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. In order to succeed on this ground, the appellant must show that the use had been continuous for a period of four years beginning with the date of the breach. The test in this regard is the balance of probability and the burden of proof is on the appellant.
14. In his evidence, Mr Hyland explained that the building was erected in 2001 and initially used as a domestic outbuilding to Blackbrook Lodge, his place of residence at that time. He went on to explain that a kitchen and bathroom were installed in 2007, and that from then on he started to let out the building as a holiday lodge to paying guests. Mr Hyland explained that the building was most often occupied as self-catering accommodation, but occasionally on a bed and breakfast basis, with guests taking breakfast at Blackbrook Lodge. This evidence is, in part, supported by a letter from Mr G.A.Cook, who describes booking the accommodation on two occasions, firstly in January 2012 and again in January 2014. In his letter, Mr Cook also confirms taking breakfast in 'the main house' and it was confirmed at the Inquiry that this was a reference to Blackbrook Lodge.
15. The difficulty is that the letter from Mr Cook only covers the period of two years between 2012 and 2014, and even then only relates to two stays by that one individual. This is the only documentary evidence available to support Mr **Hyland's version of events**. Given that Mr Hyland claims that the accommodation was occupied by paying guests over a period of some seven years between 2007 and becoming his home in October 2014, I would have expected him to have been in a position to provide more documentary evidence in support of his case: for example, invoices, receipts, and/or a record of the dates on which the accommodation was occupied as a holiday accommodation.

16. The other significant point arising **from Mr Cook's letter is that he confirms** occupation on a bed and breakfast basis. It follows that the only documentary evidence before me shows that the building was used in connection with Blackbrook Lodge, as opposed to self-contained accommodation.
17. The Council does not dispute that Mr Hyland took up permanent residence of the building as his home in October 2014 but, against the evidence relating to the use of the building before that date produced by the appellant, the Council points to a succession of planning applications relating to the Blackbrook Lodge Camping & Caravan Site as a whole. In these applications, the building subject to the notice is consistently referred to as an office/bed and breakfast unit. On two of the plans submitted with those applications, Drawing No 13/027/01 dated May 2013 and Drawing No 16/027/02 dated July 2016, the building is **clearly annotated as being the 'existing admin block'**.
18. The application form for planning application 15/00615/FUL, dated 19 August 2015, states the proposal as being **"Retain change of use of office/bed and breakfast unit to dwelling for a temporary 3 year period (revised scheme)"**. I note the inclusion of the **word 'office' in that description**, and also that the bed and breakfast unit is described as being in connection with the dwelling. The latter is consistent with the use described by Mr Cook in his letter.
19. In response, Mr Hyland sought to explain this by saying that the plans were drawn up by his architect and that the initial error was then carried over to subsequent applications. He had not seen those drawings prior to submission and, had he been properly advised about the implications, he would have ensured that description referred to use as holiday accommodation.
20. I find that explanation less than credible, given that Mr Hyland was the stated applicant and, as operator of the camping and caravan site, had a vested interest in the outcome of the application. Moreover, **Mr Hyland's explanation** becomes even less credible when it comes to planning application Ref 15/00324 submitted on 8 May 2015. In the description of the development then being applied for, the building now subject to the notice is described as being previously used for bed and breakfast and as a site administration building. The salient point here is that the application form was filled out by hand by Mr Hyland himself, and the declaration signed by him personally. As such, Mr Hyland cannot credibly claim to have been unaware of the description of the use of the building stated on the application form or that, having signed the declaration himself, he did not understand the description that he himself gave or did not believe that description to have been accurate.
21. Finally in this context, in dismissing the appeal arising from the refusal of planning application 15/00615/FUL (APP/P1045/W/15/3140709), the Inspector noted in paragraph 20 of his decision that "there was no dispute that the cabins might continue to be used for purposes ancillary to the appeal site, namely as an administrative office and reception area". The obvious corollary is, for the Inspector to have recorded that, he must have heard or read undisputed evidence to the effect that the building (or 'cabins' as he termed it) had previously been used as an administrative office and reception area. In any event, I have not been made aware that **the Inspector's** decision was challenged on that or any other basis, or that a justified complaint was made on the basis that the statement was inaccurate. I therefore attached significant **weight to the Inspector's remarks in this respect.**



22. Having regard to the above, this is not a situation where the local planning authority has no evidence of its own to contradict that of the appellant or make his version of events less than probable. On the contrary, I find that the **appellant's evidence is not sufficiently precise to counter the documentary** evidence produced by the Council, including comments made by an Inspector in a recent appeal decision relating to the same building subject to this appeal. Neither, for that matter, am I persuaded that the building has ever been used for anything other than a site administration building with occasional bed and breakfast use in connection with the main dwelling at Blackbrook Lodge prior to Mr Hyland taking up residence in October 2014. For that reason, in my view none of the use of the building prior to October 2014 counts towards establishing that use as a dwellinghouse within Use Class C3 was taking place in the building.
23. I am therefore not persuaded on the evidence before me that, on the balance of probability, the use of the building as a dwellinghouse has continued for a period of four years beginning with the date of the breach. Accordingly, I conclude that the appellant has not discharged the onus of proof that is upon him and that the appeal on ground (d) fails.

The appeal on ground (a) and the deemed planning application

24. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated one substantive reason for issuing the notice, from which the main issue raised is whether there is an essential functional need for a person to be permanently resident on the land.

*Development Plan Policy context*

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. The development plan for this area is the Derbyshire Dales District Local Plan, adopted in December 2017 (Local Plan).
26. Policy S4 of the Local Plan is a criteria-based policy that applies to development outside defined settlement boundaries, as in this case, and seeks to facilitate sustainable rural community needs, tourism and economic development. Criteria (i) of this policy relates to new residential development and provides, amongst other things, that planning permission will be granted for the conversion and re-use of buildings to meet the essential requirements of agriculture, forestry and other rural based enterprise in accordance with Policy HC13 of the Local Plan.
27. The latter is also a criteria-based policy and indicates that planning permission will be granted for dwellings to meet the needs of rural based workers provided that *all* the criteria set out in the policy are met (my emphasis). These criteria are: (a) that there is a clearly established functional need; (b) the need relates to a full-time worker; (c) the unit and rural based enterprise has been established for at least three years, has been profitable for at least one of them, is currently financially sound and has a clear prospect of remaining so; and (d) the functional need cannot be fulfilled by another existing dwelling on the unit or within the locality.

28. Criteria (i) of Policy S4 goes on to indicate that planning permission will be granted for conversion and re-use of buildings in accordance with Policy HC8 of the Local Plan. The latter is again a criteria-based policy that applies outside of defined settlement boundaries and indicates that planning permission will be granted for conversion and/or re-use of existing buildings to residential use provided that all the criteria set out in the policy are met. These criteria include (a) that the building or group of buildings are of permanent and substantial construction and (c) can be converted without extensive alteration, rebuilding or extension. I note that Policy HC8 is not tied to any functional need for the dwelling that results from the conversion or re-use of the building.
29. Finally, criteria (n) of Policy S4 indicates that planning permission will be granted for the re-use of existing buildings that are capable and worthy of conversion, and involve a building that contributes positively to an established local character and sense of place.
30. I have set out the relevant policy context in some detail here because it provides a useful framework within which to consider the main issue that I have identified above. In doing so, I am mindful that these policies pull in slightly different directions, such that those policies and the individual criteria within them must be read together and considered in the round.

*Essential functional need*

31. **The Oxford English Dictionary defines the word 'essential' as meaning something that is absolutely necessary and/or central to the nature of something, and defines 'requirements' as something that is needed or is compulsory. The use of these two words together in criteria (i) of Policy S4 therefore connotes more than something that might be just convenient, economic or an individual's preference. Moreover, the term 'essential functional need' used in the reasons for issuing the notice has its foundations in the wording of the development plan, specifically drawn from the word 'essential' in Policy S4 and the words 'functional need' in Policy HC13. In my view, the wording used in the reason for issuing the notice sets a high bar to clear, and one which is raised even further by the use of the words 'clearly established' in criteria (a) of Policy HC13.**
32. The appellant seeks to demonstrate an essential functional need for the residential use of the building primarily in terms of the need for security on a 24 hour basis. In his evidence, Mr Hyland referred to instances of anti-social behaviour on the site which necessitated calling the police. He also refers to the theft of a caravan from the site and explains that, given that the cost of a caravan and associated equipment may be considerable, the potential theft of their caravan is a concern for those who might leave their caravan on the site.
33. The evidence before me, however, is that instances of anti-social behaviour are relatively isolated. I have not been provided with a log of such instances or any firm indication as to how many times or how frequently the police have been called to the site. The best estimate that Mr Hyland was able to give was around half a dozen occasions. I also have no evidence to show at what times of the day or night those instances of anti-social behaviour have occurred. Moreover, I understand that the theft of the caravan was itself an isolated incident, and has not occurred since CCTV was installed on the site.

34. In this context, Mr Hyland has installed CCTV within the last three years and I was shown the monitor screens for this system during my site visit. In his written evidence, Mr Hyland contends that CCTV is useless without physical presence on the site at all times and is therefore not an alternative to on-site supervision. Nevertheless, it seems to me that this a matter of fact and degree. Whilst permanent on-site presence would no doubt be convenient and even desirable when such incidents do occur, the number of recorded instances where an incident recorded by CCTV requires immediate attendance by the owner appears to be relatively infrequent. On those occasions where anti-social behaviour does demand attendance by the police, I see no reason why that incident could not be monitored using CCTV and police attendance requested from a remote location. I am therefore not convinced that incidents of anti-social behaviour on the site, and other occurrences that might warrant the presence of the site owner, are so frequent or so serious as to justify a permanent residential presence on the site and could not be adequately dealt with remotely using CCTV.
35. Also in the context of site security, Mr Hyland asserts that it is a requirement of his site insurance that there must be a permanent residential presence on the site. In support of that, Mr Hyland produced a copy of his Liability Insurance Schedule with Everest Underwriting. However, the limits of liability set out in that schedule include Employers Liability, Public Liability and Products Liability but do not cover the theft or damage to individual caravans. It follows that the insurance of those caravans is the sole responsibility of the individual caravan owners, and I have been provided with no evidence to show that the terms of the insurance taken out by those owners is conditional upon the presence of a permanent on-site manager.
36. The Liability Insurance Schedule produced by Mr Hyland does clearly state that there must be a residing site manager on the site at all times as a condition precedent to liability. If it were the case that every insurance underwriter required a similar condition precedent to liability then, I accept, this would point strongly in favour of a permanent residential presence on the site. In the event, I have been provided with no evidence that other insurance underwriters do stipulate a similar condition precedent for liability, or that Mr Hyland has been unable to secure affordable insurance without an attendant requirement for a permanent residential presence on the site. I therefore attach little weight to the Liability Insurance Schedule provided by Mr Hyland.
37. As part of his evidence, Mr Hyland has also produced a Risk Assessment which, he contends, also demonstrates the need for a permanent residential presence on the site. This Risk Assessment is undated but, from references from within the document, it can be ascertained post-dates June 2018 and therefore after the number of pitches on the site was increased in 2016. One of the risks identified is the protection of guests from rowdy behaviour by others, in relation to which the action identified as being taken is stated as the presence of the owner on a 24-hour basis. However, neither in relation to that risk nor any of the other risks identified in the assessment I am convinced on the evidence before me that the risk could not addressed by actions that do not require a permanent presence on the site.
38. The other aspect which Mr Hyland considers justifies a permanent presence on the site is to welcome new arrivals to the site and to **facilitate the 'hooking up'** of their caravan to the electric and water points on the pitches. Mr Hyland

explained that these new arrivals typically arrive no later than 22:00, although there are exceptions, and may turn up without prior notification. In addition to this, there are people camping in tents, which Mr Hyland advised might typically amount to half a dozen per week and who may also arrive unannounced and at any time.

39. The number of caravan pitches on the site is approximately 50, of which 13 are restricted to limited periods of occupation. **The remainder are 'seasonal'** pitches for which the customer pays on a monthly basis over the year and may station their caravan on the site throughout, albeit they may on occasions take their caravans on trips away from the site. Given, then, that the majority of pitches on the site are occupied on a seasonal basis by customers familiar with the site and its facilities, this suggests that the majority of customers using the site would need no or minimal assistance upon arrival. Moreover, it would appear that the majority of new or less frequent visitors, including those camping in tents, arrive during the working day or at most late into the evening. I fully accept that welcoming those customers onto the site might require a long working day but I am not persuaded that this would itself necessitate a permanent presence on the site. I also take the point made by the Council that the arrival of visitors to the site could be further controlled by adjusting opening hours and making those hours widely known.
40. The typical duties of the site owner and others working on the site include cutting the grass and other grounds maintenance. It appears to me that all of those duties could be carried out during the normal working day by someone living off-site. There was some discussion at the Inquiry as to whether other camping and caravan sites in the District had a manager living permanently on the site, but no definitive evidence was provided to demonstrate one way or the other whether this was typically the case.
41. Having regard to all the above, I am not persuaded that a functional need for a dwelling on the site has been clearly established, such that it could be considered to be an essential functional need in this case. I therefore conclude that the breach of planning control alleged in the notice does not accord with criteria (a) of Policy HC13 of the Local Plan and, by association, Policy S4.

*Whether the need relates to a full-time worker*

42. I have no doubt that, during the summer months when the camping and caravan site is most busy, that there is a need for a full-time worker on the site. Indeed, I understand that more than one worker is employed, for example, to serve in the on-site shop. I can also accept that a full-time worker would be needed in preparation for the busy summer months.
43. There is, nevertheless, the seasonal aspect of the use to consider. It is not disputed that the number of visitors to the site is greater in the summer months than in the winter. Indeed, as Mr Hyland explained, this forms part of the rationale behind **the 12 month 'seasonal' pitches**, insofar as it provides a steady income at times when the camping and caravan site is less busy and as such assists with financial planning. It therefore seems to me that the need for a worker on the site is less during the winter months than in the summer months, and that the need for a full-time worker on a year-round basis has not been demonstrated. I therefore conclude that the breach of planning control alleged in the notice has not been shown to accord with criteria (b) of Policy HC13 of the Local Plan.

*Whether the rural based enterprise is currently financially sound*

44. There is no dispute that the unit and rural based enterprise has been established for at least three years, and has been profitable for at least one of them. The question remains, however, as to whether the camping and caravan site is currently financially sound and has a clear prospect of remaining so.
45. The appellant has provided profit and loss accounts for 2016 and 2017. These show an overall loss in 2016 and a modest profit in 2017. I understand that the equivalent profit and loss accounts for 2018 have only recently become available and these were not produced in evidence. In the absence of the most recent accounts, and notwithstanding that the trajectory of the profit/loss is upwards on the two accounts that are available to me, it is not possible for me to establish a trend in relation to profit and loss going forward. Consequently, I am not able to conclude with any certainty whether the camping and caravan site is currently financially sound and has a clear prospect of remaining so. I am therefore not able to conclude that the breach of planning control alleged in the notice accords with criteria (c) of Policy HC13 of the Local Plan.

*Whether the functional need can be fulfilled by another existing dwelling*

46. There is no other dwelling on the unit and the appellant maintains that there are no properties available within a reasonably convenient distance of the camping and caravan site that are affordable to him. That assertion is not supported with evidence. There is, for example, no evidence to suggest that Mr Hyland has carried out a robust and systematic search of the local housing market, either for purchase or for rent, by employing a local estate agent or by using one of the online search sites such as Rightmove or Zoopla. In the absence of that evidence, I am unable to conclude that there are no suitable properties available within a reasonably convenient distance of the camping and caravan site. As such, it has not been shown that the breach of planning control alleged in the notice accords with criteria (d) of Policy HC13 of the Local Plan.

*Conversion of the building*

47. There is no dispute that that the building is of permanent and substantial construction, and has been converted without the need for extensive alteration, rebuilding or extension. I am therefore satisfied that the breach of planning control accords with those aspects of Policy HC8 of the Local Plan. In that respect, I am also satisfied that the existing building is capable and worthy of conversion, and as such accords with that aspect of criteria (n) of Policy S4 of the Local Plan.
48. Whilst the conversion of the building to residential use does not have a detrimental impact on the character of the building or its surroundings, I am equally not convinced that the breach of planning control alleged in the notice involves the re-use of a building that contributes positively to an established local character and sense of place. In this latter respect, the breach of planning control cannot be properly said to accord with criteria (b) of Policy HC8 or criteria (n) of Policy S4 of the Local Plan.

*Conclusion against the development plan*

49. I am satisfied that the breach of planning control alleged in the notice accords with some aspects of Policy HC8 of the Local Plan, and also with some aspects

of Policy S4. However, the breach of planning control fails to accord with criteria (a) and (c) of Policy HC13, and has not been shown to accord with criteria (b) and (d) of that policy. Policy HC13 is clear in stating that planning permission will be granted where it can be demonstrated that all of the four criteria set out in the policy are satisfied but, on the evidence available to me, that has not been shown to be the case. In turn, full compliance with Policy S4 is dependent upon compliance with criteria (i) of that policy, which itself requires compliance with Policy HC13.

50. I therefore conclude that, looked at in the round, the breach of planning control alleged in the notice fails to accord with the development plan.

*Other considerations*

51. I have found that the use of the building as a dwellinghouse fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
52. The appellant has indicated that he would accept a condition imposed upon the grant of planning permission limiting occupation to persons solely employed in association with the camping and caravan site and their dependents. Whilst I can understand the logic of that, one of the tests for the imposition of conditions set out in the Planning Practice Guidance is that a condition must be necessary to make the development to be approved acceptable in planning terms. However, I have found that an essential functional need for a permanent dwelling on the site has been not been clearly established. It follows that a condition limiting occupation to persons solely employed in association with the camping and caravan site would not make the use acceptable in planning terms, and would not accord with the test set out in the Planning Practice Guidance. I therefore consider that neither a condition limiting occupation to persons solely to those employed in association with the caravan site, nor any of the other conditions discussed at the Inquiry, would overcome the harm that I identified above.
53. The appellant points out that, in the event of the notice being upheld, he would still have the option to reside on the site by occupying one of the caravans on the site not restricted in its period of occupation. **In the appellant's view, that option represents a powerful fallback position and is a fundamental material consideration.**
54. My difficulty with the **appellant's** fallback position is his own admission that he has had **to live rather 'frugally' over the past few years** together with his expressed recognition of the potentially significant cost of a caravan. I am therefore not convinced, and no evidence has been provided to demonstrate, that Mr Hyland has the financial resources to purchase a caravan. In addition, because of the restriction on the periods for which the touring caravans on the site can be occupied, it follows that Mr Hyland would have to occupy one of the seasonal 12-month pitches. Consequently, not only would Mr Hyland have to fund the purchase of a caravan, he would suffer the loss of income arising from the year-long rent of one of the seasonal pitches. In that context, I am mindful that Mr Hyland placed much store on the importance of the seasonal pitches in terms of evening out cash flow throughout the year and that the loss of one such seasonal pitch would be significant in that respect.

55. I recognise of course that, if the notice is upheld and Mr Hyland was obliged to find accommodation away from the site, then that too would come at a cost. However, in the absence of evidence to the contrary, I am not convinced that renting accommodation off-site would be a more expensive option than purchasing and occupying a caravan on-site. For these reasons, I am not persuaded that there is a reasonable possibility that Mr Hyland would occupy one of the caravans on the site in the event that the notice is upheld. Accordingly, I attach only **moderate weight to the appellant's fallback position.**
56. The appellant points out that paragraph 79 of the National Planning Policy Framework (Framework) provides support for isolated homes in the countryside in certain circumstances, including where there is an essential need for a worker to live permanently at or near their place of work in the countryside. **In the light of recent court judgments on the meaning of 'isolated'** in this context, I am not convinced that the building could properly be described as being isolated for the purposes of paragraph 79 of the Framework, given the proximity of Mukkibruk Farm (formerly known as Blackbrook Lodge) and other nearby properties. I do not have to reach a firm conclusion on that point but, even if it could be so described, I have already found that there is no essential need for a worker to live permanently at the appeal site, such that the appellant would not be able to draw on support from paragraph 79 of the Framework in this case.
57. In dismissing the appeal arising from the refusal of planning application 15/00615/FUL (APP/P1045/W/15/3140709), the Inspector concluded that the evidence available to him did not disclose a need for a dwelling on the site that was essential to the running of the business. Nothing that I have read or heard in relation to this appeal leads to me to the conclusion that circumstances have changed so significantly since that time as to justify a different outcome to that reached by the Inspector in that case. I attach significant weight to the **Inspector's decision** as a material consideration in this case.
58. I am fully aware that the dismissal of this appeal would result in the appellant and his partner losing their home. This would interfere with their rights under the European Convention of Human Rights (ECHR), as incorporated into domestic law by the Human Rights Act 1998. In particular, their rights under Article 8 (right for respect for private and family life, home and correspondence) and Article 1 of the First Protocol (right to respect to property) would be interfered with. Both of the above are qualified rights, and interference with them may be justified where lawful and in the public interest.
59. The issue of an enforcement notice is in accordance with the law, specifically section 172 of the 1990 Act, such that there is a clear legal basis for the interference with the rights under Article 8 and Article 1 of the First Protocol held by Mr Hyland and his partner. I am also satisfied that proper planning in compliance with policy set out in an adopted development plan and the Framework is in the public interest. I therefore consider that the interference with the rights held by Mr Hyland and his partner under the ECHR is justified in the circumstances and is a proportionate outcome in this case.

*Other matters*

60. Mr Hunt, the owner of Mukkibruk Farm, has raised concerns regarding the vehicular access to the camping and caravan site and the effect that, in his opinion, the construction of this access has had on his property. Whilst I

recognise that this is a matter of considerable importance to Mr Hunt, it is a private matter between Mr Hunt and the appellant, and as such it is not a consideration before me in this appeal.

*Conclusion on the appeal on ground (a)*

61. The supporting text to Policy HC13 makes it clear that, if planning permission is to be granted for a new dwelling for persons employed in a rural based enterprise, then it will be as an exception to normal planning policy. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, which would justify an exception to normal planning policy and which would indicate that determination should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not be granted for the breach of planning control stated in the notice.

*The appeal on ground (g)*

62. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is 30 days.
63. The Council concedes, on reflection, that the compliance period of 30 days specified in the notice is not reasonable. The Council went on to indicate that it would have no objection to a compliance period of six months in the event that Mr Hyland was in the position whereby he would have to find alternative accommodation away from the camping and caravan site.
64. It is a consequence of my decision on the ground (a) appeal that Mr Hyland will have to find and secure alternative accommodation away from the caravan and camping site, and then move into that accommodation. I concur with the Council that a period of six months would be necessary to undertake all of that and, in my view, would be a proportionate response to the breach of planning control that has occurred. A period of six months would also enable the appellant to submit a planning application for use of the building as holiday accommodation, should he wish to do so. I shall therefore vary the notice to extend the period of compliance to six months.

*Conclusion*

65. For the reasons given above, I conclude that the appeal should not succeed. I will uphold the notice with corrections and a variation, and will refuse to grant planning permission for the breach of planning control alleged in the notice.

*Formal Decision*

66. It is directed that the enforcement notice be corrected by:
- deleting the breach of planning control alleged at paragraph 3 of the notice in its entirety, and replacing it with: **'Without planning permission, the material change of use of the building outlined and hatched green on the attached 1:2500 and 1:1000 scale plans to a dwellinghouse (Use Class C3).'**
  - **deleting the word 'buildings' in paragraph 4 of the notice, and replacing it with the word 'building'.**



67. It is directed that the enforcement notice be varied by:

- deleting the word 'buildings' paragraph 5.1 of the notice, and replacing it with the word 'building'.
- deleting the words '30 days' at paragraph 5.1 of the notice and substituting there the words 'six months'.

68. Subject to those corrections and variations, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use without planning permission of the building as a dwellinghouse (Use Class C3), as shown outlined and hatched green on the plan attached to the notice at Land at Blackbrook Lodge Camping & Caravan Site, Intake lane, Turnditch, Derbyshire DE56 2LU.

*Paul Freer*

INSPECTOR

## APPEARANCES

For the appellant:

Mr Alan Roger Yarwood Dip TP MRTPI

Roger Yarwood Planning  
Consultants Ltd,  
appearing as advocate  
and witness

He called:

Mr Victor Hyland

Appellant

For the Local Planning Authority:

Mr John Campbell

Of Counsel, instructed by  
Derbyshire Dales District  
Council

He called:

Mr Chris Whitmore BA (Hons) MSc MRTPI

Principal Planning Officer

## DOCUMENTS SUBMITTED AT THE INQUIRY

1. Letter from Mr Thomas H Hunt, owner of Mikkisbruk Farm, Intakes Lane, Turnditch DE56 2LU, dated 16 May 2019.
2. Copies of planning application forms and accompanying plans for planning applications 14/00342 dated 8 May 2015 and 16/00615 dated 19 August 2015.
3. Statement of Common Ground signed by Mr Yarwood and Mr Whitmore
4. Extracts from the Derbyshire Dales District Local Plan, including Policies HC8, EC7 and EC9 with supporting text.
5. Signed note submitted by Mr Yarwood on behalf of the appellant withdrawing the appeal on ground (e).



## Appeal Decision

Site visit made on 12 March 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2019

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Appeal Ref: APP/P1045/W/18/3212807

Land to the North West of Smith Hall Farm, Smith Hall Lane, Hulland Ward, Derbyshire DE6 3ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr T Plant (Traditional Log Company) against the decision of Derbyshire Dales District Council.
  - The application Ref 18/00140/FUL, dated 5 February 2018, was refused by notice dated 5 April 2018.
  - The development proposed is extension to building for forestry and timber storage purposes and extension of yard to be used as a woodyard.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The site address on the application form was modified by the Council on their decision notice and used by the appellant on the appeal form. I have used the revised address for the banner heading above.
3. The description of development was changed from that on the application form with the agreement of the parties. I have utilised that on the banner above.

### Main Issue

4. The main issue in this appeal is the effect of the development on the character and appearance of the countryside.

### Reasons

5. The appeal site consists of an agricultural building, immediately surrounded by hard-standing. Beyond this are several open fields which characterise the locality. The site is largely exposed within the wider area. The site is accessed from Smith Hall Lane.
6. The proposal is for an extension to the agricultural building for forestry and timber storage purposes, as well as an extension to the yard area to form a wood yard.
7. From the evidence in front of me, it appears that the appellant operates the sheep rearing business from the appeal site, and the logging business from elsewhere, on a site owned by a family member. The appellant now wishes to operate both businesses from the appeal site. The appellant does not live on the site, nor does he live at Smith Hall Farm, as stated in the appeal statement

and questioned by several interested parties. This has been confirmed as a drafting error by the appellant.

8. It is not disputed by the parties that forestry falls within the definition of agriculture, as set out in Section 336(1) of the Planning Act 1990. However, the Council contend that as the wood would be delivered to the site for processing, it would not be associated with forestry activity on the holding.
9. In terms of the case forwarded in support of the appeal, I have taken into consideration the support given to a prosperous rural economy, as set out in paragraph 83 of the National Planning Policy Framework, which I can attach weight to.
10. There are economic benefits in the relocation of the two businesses into one site, as well as not using high rent industrial premises for the storage and treatment of a relatively low value product. Again, weight can be attributed to these benefits.
11. I have taken into consideration the arguments of the appellant in respect of case law, but the key issue is that there is no agricultural/forestry relationship between the trees being grown on managed woodland elsewhere, and the processing of the wood. Put simply, the proposal is for processing wood on site, an industrial use, not an agricultural use. It is delivered, processed, and then sold onwards as seasoned logs.
12. I also have concerns in relation to the nature of the processing of the logs. There would be cutting and shaping of the logs, which could require machinery to carry the work out efficiently, which in turn would bring into focus the potential acoustic impacts of the work being carried out in what is a rural location.
13. In simple terms, the wood would be delivered to site from elsewhere, as the site is not located in close proximity to managed woodland, which I find limits the sustainability benefits of the scheme. The wood is then seasoned and cropped on site for onward sale. This is not directly related to agriculture, and I find that it would be more akin to a B2 Use Class (wood processing) and a B8 use class (storage and distribution). It cannot be considered as farm diversification as no evidence has been provided to suggest that the business as a whole would be unviable without the wood processing taking place on site.
14. With regard to the proposed extension to the building, the site itself is exposed within the landscape, and is clearly visible within a wider area due to the generally flat topography. The extension itself would effectively double the size of the building, making the building appear more incongruous in such an isolated location. I have noted the proposed use of larch cladding, as well as additional planting in order to mitigate the effect of the building. However, I find that this would not offset the additional harm caused by the increased size of the building in this location.
15. Policy S4 of the Derbyshire Dales Local Plan (2017) (the LP) states that development in the countryside should protect and enhance the landscape character and distinctiveness and sets out criteria that development should follow in order to be granted. Criterion f) relates to agriculture and related development, including complimentary farm diversification and agricultural

buildings that maintain the landscape quality and character of the countryside. This is reinforced by Policy EC1 and EC10.

16. I find that without meeting the thrust of the key policies, there is insufficient justification for the extension of the agricultural building, effectively doubling its size, as well as the extension to the yard, in addition to the nature of the work that would be carried out on site. I find that the economic benefits of the proposals are outweighed by the environmental harm that I have identified.
17. Therefore I find that the appeal proposals would be harmful to the character and appearance of the countryside and are therefore contrary to Policies S4, EC1 and EC10 of the LP.

#### Other Matters

18. I have taken into consideration that comments of interested parties in relation to the appeal site, and the intentions of the appellant. I have assessed the proposals in relation to the reason for refusal set out by the Council and dealt with the scheme on its own merits.

#### Conclusion

19. For the reasons outlined above, the appeal is dismissed.

*Paul Cooper*

INSPECTOR



## Appeal Decision

Site visit made on 12 March 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2019

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Appeal Ref: APP/P1045/W/18/3213152

The Old Flower Warehouse, Station Yard, Watery Lane, Clifton, Derbyshire DE6 2GL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class P of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr & Mrs G Lambert against the decision of Derbyshire Dales District Council.
  - The application Ref 18/00356/PDP, dated 28 March 2018, was refused by notice dated 22 June 2018.
  - The development proposed is Class P application for prior approval - Change of use from Class B8 (storage) to Class C3 (dwelling house)
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposed development would comply with the conditions, limitations or restrictions applicable to development permitted, having regard to Class P of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

### Reasons

3. Schedule 2, Part 3, Class P of the GPDO states that development consisting of a change of use of a building and any land within its curtilage from a use falling within Use Class B8 (storage or distribution centre) to a use falling within Class C3 (dwelling houses), is permitted development. Paragraph P.1 (a) – (j) sets out the relevant exceptions and limitations of the permitted development right.
4. **It is evident from the Council's evidence that its concerns in this case relate to the limitations set out in paragraphs P.1(a) and (b).** These state that the development is not permitted by Class P if:
  - (a) the building was not used solely for a storage or distribution centre use on 19th March 2014 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
  - (b) the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins.

5. Paragraph P.2 states that development is permitted by Class P subject to the condition that before beginning the development, the developer must, amongst other things, submit a statement which must accompany the application to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b).
6. The appellant asserts that the proposal complies with the GPDO as the site has been operational as a B8 storage use since he purchased the appeal building in 2017. A sworn statement has also been provided by the previous owner of the site, who states that the site has been used for storage for at least 20 years prior to that sale and was used for storage purposes from 19 March 2014 until it was sold to the appellant. An additional sworn statement was supplied from the owner of the adjacent coal yard who corroborates the above statements. However, I have very little substantive evidence to support these assertions.
7. The appellant also refers to supplied water rates bills, but these do not assist in establishing the use of the building as storage and/or distribution use. In my view this demonstrates that the building was only in intermittent use during that period.
8. Moreover, the sworn statement **and evidence provided by the owner of 'The Old Station House' adjacent** to the appeal site, appears to contradict the statements referred to above and includes evidence that suggests that alternative uses have been in operation during the time period in question.
9. It is for the appellants to provide substantive evidence to support their case for **permitted development. In this case, I do not find that the appellant's grounds** of appeal provide the necessary persuasive evidence
10. Therefore, from what I have seen and read, on the balance of probabilities, I cannot conclude with any certainty that the building was used solely for a storage or distribution centre use on 19 March 2014 or before that date. Consequently, the proposal would not comply with the conditions, limitations or restrictions applicable to development permitted, having regard to Class P of Schedule 2, Part 3 of the GPDO, and therefore is not development permitted by it.
11. Given the findings above, it is not necessary or appropriate for me to consider the various criteria set out in paragraph P.2(b) of the GPDO.

#### Conclusion

12. For the above reasons, I conclude that the appeal should be dismissed.

*Paul Cooper*

INSPECTOR

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## Appeal Decision

Site visit made on 18<sup>th</sup> March 2019

by Alison Roland BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2019

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Appeal Ref: APP/P1045/D/18/3219172

Myddleton House, North Avenue, Ashbourne, Derbyshire, DE6 1EZ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Stevens against the decision of the Derbyshire Dales District Council.
  - The undated application Ref: 18/00584/FUL, was refused by notice dated 10 October 2018.
  - The development proposed is single storey extension at the rear of the property to form dining and family space together with the construction of a detached car port with a home office over on the first floor within the rear curtilage of the property and fence to rear garden (standard timber boundary fence 1.83m in height).
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### Procedural Matter

1. Although not cited in the application forms, the plans also depict the enlargement of a first floor window on the rear elevation and blocking up of a further window on the South elevation. The Council dealt with the application on the basis that these elements were included and I shall do likewise. The application was part retrospective as the fence is already erected.
2. The appellant submitted two additional plans with the appeal: 2017-11-76-05 & 2017-11-76-06. These simply provide greater clarity about finished levels and do not materially alter the nature of the proposal. I am satisfied therefore, I can take them into account in my determination of the appeal without prejudice to any party.

### Decision

3. The appeal is allowed and planning permission is granted for single storey extension at the rear of the property to form dining and family space together with the construction of a detached car port with a home office over on the first floor within the rear curtilage of the property and fence to rear garden (standard timber boundary fence 1.83m in height), at Myddleton House, North Avenue, Ashbourne, Derbyshire, DE6 1EZ, in accordance with the undated application Ref: 18/00584/FUL and the plans submitted with it, subject to the following conditions:
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref: 2017-11-76-04 depicting fence location; Location Plan Ref: 2017-11-76-04: Red edge; Proposed Extension



Drawing Ref: 2017-11-76-01 Rev A; Proposed Planning Drawing- Car Port & Home Office Drawing Ref: 2017-11-76-02 Rev A; Existing Plans & Elevations Drawing Ref: 2017-11-76-03; Topographical Survey Indicating the Location and Levels of the Proposed Car Port Drawing Ref: 2017-11-76-05; Front Elevation/Section (X.X) of the Proposed Car Port Indicating Levels from Topo Survey Drawing Ref: 2017-11-76-06.

3. The car port/office hereby permitted shall only be occupied or used in connection with and ancillary to the occupation of the existing dwelling and shall at no time be severed and occupied as a separate independent unit.

#### Main Issue

4. The main issue in this appeal is the implications of the proposal for the living conditions of occupiers of No 1 Catherine Court by virtue of the potential for overbearing effects and loss of light.

#### Reasons

5. The Council take no issue with the rear extension and their concern is confined to the proposed car port building. This would stand to one side of No 1 Catherine Court, the side wall of which contains several windows facing the appeal site. I viewed the appeal site from the interior of that property at my visit. There is a significant difference in levels between the appeal site and that property, to the effect that the ground floor windows outlook onto a side boundary wall and fence. This results in a constrained outlook from two of the three windows serving the dining kitchen. However, as the car port building would be located in an offset position relative to those windows and in a northerly position relative thereto, I do not consider that it would appreciably diminish the light reaching those windows, nor be overbearing in relation to them.
6. It would have a more direct effect in these regards in relation to the door and window serving the utility and also the bathroom over at first floor. However, as these are not rooms where one would spend a considerable amount of time and bearing in mind the separation distances involved, I am satisfied that the proposal would not materially compromise the living conditions of the occupants. Whilst concern is expressed about light reaching the family room and garden at the rear of the property, as the building would stand to the North West and only project beyond the rear elevation of No 1 by a marginal amount, I consider any effect in this regard would be well within tolerable limits.
7. Concern is also expressed in relation to the fence as it stands in an elevated position relative to the garden to No 1. However, it is of fairly typical design for a rear garden fence and I do not consider it appears unduly intrusive or overbearing.
8. For these reasons, I conclude on the main issue that the proposal would not be unacceptably harmful to the occupants of No 1 Catherine Court by virtue of overbearing effects or loss of light. I thus find no conflict with Policy PD1 of the Derbyshire Dales Local Plan 2017. This seeks to ensure that new development achieves a satisfactory relationship to adjacent development and does not cause unacceptable harm by reason of amongst other things, overbearing and overshadowing effects.

## Other Matters

9. The occupants of No 1 Catherine Court have also expressed concern about the enlargement of the first floor rear window in the existing house. However, as this would stand a considerable distance from their garden and bearing in mind the existing window in this position, I do not consider it would give rise to a material loss of privacy. Whilst concern is expressed that the proposal might give rise to a future application to convert it to a dwelling or that a business might operate therefrom, both of these options would require further planning permission and are not matters before me. The effect of any construction activity on the retaining wall to the property is a civil matter for resolution between the parties and the effect of construction traffic along Catherine Court would likely be short lived. Whilst there is a suggestion that the building would appear visually intrusive, I consider it would be of unremarkable design and the use of brick and tile to match the existing dwelling would render it in keeping with the area.
10. The occupants of No 22 North Avenue also expressed concern about the first floor of the car port potentially giving rise to a loss of privacy to that property. However I am satisfied that there would be no material harm in this regard given the available separation distance.

## Conditions

11. In addition to the standard condition relating to the time limit for commencement of development, a condition confining the approval to specified plans is necessary for certainty. The Council also suggest a condition requiring the car port to be used for purposes ancillary to the dwelling and not as a separate independent unit. Given the proximity of the building to No 1 Catherine Court, I consider this is reasonable and necessary to protect living conditions.

*ALISON ROLAND*

INSPECTOR

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## Costs Decision

Site visit made on 18<sup>th</sup> March 2019

by Alison Roland BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2019

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Costs application in relation to Appeal Ref: APP/P1045/D/18/3219172  
Myddleton House, North Avenue, Ashbourne, Derbyshire, DE6 1EZ.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Ian Stevens for a full award of costs against Derbyshire Dales District Council.
  - The appeal was against the refusal of planning permission for single storey extension at the rear of the property to form dining and family space together with the construction of a detached car port with a home office over on the first floor within the rear curtilage of the property and fence to rear garden (standard timber boundary fence 1.83m in height).
- 

### Decision

1. The application for an award of costs is refused.

### Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The basis of the application is that the Planning Committee failed to accept the professional views of the Officer who recommended that permission be granted. However, Members are not bound to follow the advice of their Officers provided they have reasonable planning grounds for taking a differing view. Merely because the decision was based on a single reason for refusal does not render it unreasonable.
4. Members visited the site prior to making their determination, which included viewing the appeal site from within the neighbouring property. They would have been able to witness first hand the difference in levels between the appeal site and nearest neighbour No 1 Catherine Court and the proximity of the development thereto.
5. Whilst I have come to the conclusion in the related planning appeal that the proposal would not be unacceptably harmful to the occupants of that property, this is necessarily a subjective judgement. In the light of this, I consider that members had a respectable basis for coming to the view that they did. I am also satisfied that the Council adequately substantiated its reason for refusal. The Decision Notice specifically sets out the area of

concern, namely overbearing impacts. It also related that concern to a Policy which contains a sub-clause in relation to overbearing effects. In addition, the consideration of the application was delayed to enable their concerns to be raised with the applicant and seek revisions to the plans. The refusal would not therefore have come as a bolt out of the blue and I am satisfied the Council clearly expressed its point of view.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated and that an award of costs is not justified.

*ALISON ROLAND*

INSPECTOR



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## Appeal Decision

Site visit made on 26 March 2019

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5<sup>th</sup> April 2019

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Appeal Ref: APP/P1045/D/19/3222035

3 Miners Arms Cottages, School Lane, Carsington, Derbyshire, DE4 4JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Madeline Jones against the decision of Derbyshire Dales District Council.
  - The application Ref 18/01015/FUL, dated 7 September 2018, was refused by notice dated 12 November 2018.
  - The development proposed is **described as 'enclose car parking area at side of property with erection of fence, railings and gate.'**
- 

### Decision

1. The appeal is dismissed.

### Reasons

2. The appeal property lies within the Carsington and Hopton Conservation Area (CA) and is one of three cottages which are curtilage listed to the grade II listed Miners Arms Public House. The proposed railings would be sited alongside the access at the side and rear of the property to enclose a car parking area. They would be of black steel with a box section profile.
3. The listed public house dates from the C18th and like most buildings and boundaries in the village is built in stone. Its significance derives from its group value. At my visit I saw that boundaries within the area are predominantly dry limestone walls. The stone walls along School Lane and to the rear of Miners Cottages form part of the setting of the listed building and contribute positively to the character and appearance of the CA. In describing **the boundary treatments within the CA, the Council's appraisal says that 'The widespread use of rubble limestone lining the streets gives the villages a strong and cohesive character'**. Dry stone wall boundaries are therefore an important and distinctive characteristic of the CA.
4. Although there are exceptions, including the barrel store area in the car park of the public house which has low timber fencing and the trellis fencing above the stone walled boundaries of Miners Cottages, those make little contribution to the character of the village. Whilst there are cast iron railings at the church, the school and the village hall, those have a different context from the appeal site as public buildings and are not directly comparable.
5. The box profile railings proposed and lack of detailing would have a modern appearance and would be inappropriate for this historic cottage. They would be at odds with the traditional character of the stone wall cottage boundaries

within the area. This would be exacerbated by their extensive length and prominent siting which would result in them being clearly seen from the public house car park, the approach to the school along School Lane and in the approach down towards the village from the lane to the south of that.

6. I conclude, therefore, that the proposal would fail to preserve the setting of the listed public house and the character and appearance of the CA. Whilst the harm would be less than substantial, the benefits cited by the appellant of minimising opportunities for anti-social or criminal behaviour and providing additional safety, security, privacy and a small amount of work for a local business, could be achieved through a more appropriate form of boundary enclosure and do not amount to public benefits that would outweigh the wider harm that would be caused.
7. The proposal would therefore be contrary to the **Council's development plan** policies PD1 and PD2 in the Derbyshire Dales Local Plan (2017) which seek to ensure that developments contribute to local distinctiveness and contribute positively to the character of the built and historic environment. It would also be contrary to the National Planning Policy Framework which has similar objectives. There are no material considerations that justify determining the appeal otherwise and the appeal should be dismissed.

*Sarah Colebourne*

Inspector





## Appeal Decision

Hearing Held on 12 & 13 February 2019

Site visit made on 13 February 2019

by **Sarah Housden BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> April 2019

DERBYSHIRE DALES D.C.  
REGULATORY SERVICES

12 APR 2019

**Appeal Ref: APP/P1045/W/17/3188285**

**Land East of Les Ardennes, Mugginton Lane End, Hulland Ward, DE6 3EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mrs Pamela Fox against the decision of Derbyshire Dales District Council.
- The application Ref 16/00872/OUT, dated 30 November 2016, was refused by notice dated 12 July 2017.
- The development proposed is 'application (all matters except for access to be reserved) for the residential development of up to 17 dwellings with associated infrastructure (one access off Mugginton Lane End)'.
- This decision supersedes that issued on 15 March 2018. That decision was quashed by order of the High Court.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application for the proposal was refused by the Council in 2017, and an appeal was dismissed in March 2018. However, the appellant made a successful challenge in the High Court and the Inspector's decision was quashed. I have dealt with the appeal on the basis that the previous decision and the conclusions reached have no legal effect and the merits of the case must be determined as if they had not been previously considered.
3. At the hearing an application for costs was made in writing on behalf of the appellant against Derbyshire Dales District Council. The costs application is the subject of a separate Decision.
4. Following the refusal of planning permission, a new National Planning Policy Framework (the Framework) was published on 24 July 2018. After the hearing had closed, a revised Framework was published on 19 February 2019 together with the results of the Housing Delivery Test. The parties were given an opportunity to comment on the implications of these where they may be relevant to the appeal. The Council did not respond but I have taken account of the appellant's comments in coming to my decision. References to the Framework hereafter are to the February 2019 version.

5. The application was determined against the policies in the Derbyshire Dales Local Plan (2005) (DDLPL). The new DDLPL adopted on 7 December 2017 replaces the 2005 plan in its entirety and its policies can therefore be afforded due weight in the determination of this appeal. References hereafter are to the 2017 DDLPL.
6. The application was submitted in outline with all matters reserved for subsequent approval with the exception of the means of access as shown on Drawing No. 000-G4A-00-00-DR-A-103. A proposed site plan<sup>1</sup> and typology plan<sup>2</sup> also accompanied the application. These show the location of the main access road and the general layout of new housing. Whilst not formally part of the scheme, I have treated these plans as a guide to how the site might be developed, were the appeal to succeed.
7. A completed planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 dated 29 January 2018 (the s106 agreement) accompanied the appeal and I return to the provisions of the s106 agreement later in my decision.

### **Main Issues**

8. The main issues in this case are:
  - The effect of the proposed development on the form and character of Hulland Ward and the surrounding area; and
  - Whether or not the site would be a suitable location for the proposed development including in relation to the accessibility of local services and facilities; and
  - Whether or not a five year supply of deliverable housing sites can be demonstrated and the implications for the appeal.

### **Reasons**

#### *Character and appearance*

9. The appeal site is outside but adjacent to the Hulland Ward settlement boundary and in the countryside where DDLPL Policy S4 restricts new development to specific categories with an overarching aim to protect and where possible, enhance the landscape's intrinsic character and distinctiveness
10. DDLPL Policy PD1 requires new development to respect the character, identity and context of the District's townscapes and landscapes and contribute positively to an area's character, history and identity. Development on the edge of settlements should enhance and/or restore landscape character. Policy PD5 sets out a number of criteria against which the impact on landscape character will be assessed and seeks to resist development which would be detrimental to the character of the local and wider landscape or the setting of a settlement. The approach to protect and enhance landscape character in accordance with a set of criteria and not impose a 'blanket ban' on development in the countryside is consistent with the Framework and DDLPL Policies PD1 and PD5 can be afforded due weight in the determination of this appeal.

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<sup>1</sup> Drawing No 000-G4A-00-00-DR-A-103 Revision A (dated 21.03.17)

<sup>2</sup> Drawing No 000-G4A-00-00-DR-A-104



11. Hulland Ward is located along an elevated ridge line and the built up area has a distinctive west-east axis which broadly follows the A517. Its position affords long distance views to the wider landscape to the north and south of the village. More recent estate development is mainly to the north of the A517 and to the west of the A517/Moss Lane/Mugginton Lane End junction. The development at Charles Walker Close to the west of the appeal site is the exception to this pattern of development but has not undermined the strong linear form of the eastern end of the village created by frontage development on both sides of Mugginton Lane End.
12. The dispersed and single plot depth of development in the vicinity of the appeal site creates the impression of the main built up area of the village 'thinning out' towards the open countryside to the south and east of Hulland Ward. This contributes to the rural setting and character of this part of the village. To the west of the appeal site, there is a clear demarcation between the edge of the built up area delineated by the rear boundaries of properties to the south of the A517 and Mugginton Lane End and the open countryside beyond. This creates a pleasing contrast between the main built up area and its rural surroundings with open countryside running up to the edge of the village contributing to its rural character.
13. The appeal site comprises the southern half of a larger field to the east of Hulland Ward's main built up area. The northern half of the field fronting onto Mugginton Lane End is allocated in the DDLP for 18 dwellings (site HC2(r)) and has outline planning permission for residential development<sup>3</sup>. Along the northern boundary of the appeal site there are no physical features separating it from the allocated site. To the west the well-established, dense hedge on the field boundary and mature trees and vegetation around Les Ardennes create a verdant edge to the built up area. There is a sparser hedge along the southern boundary with one mature hedgerow tree.
14. Whilst it has a limited number of individual landscape features, the site is a component of the wider 'Sandstone Slopes and Heaths' landscape character type the key characteristics of which include a gently rolling upland plateau and small to medium fields surrounded by hedgerows. The Council's Landscape Sensitivity Study concludes that the site lies within an area of high landscape sensitivity and that development to the south of the village has the potential to result in the coalescence of Hulland Ward and Hulland Village. Due to the small scale and enclosed nature of the landscape and its position directly adjacent to existing development, the appellant's Landscape and Visual Impact Assessment (LVIA) concludes that the site falls within an area of medium landscape sensitivity.
15. From the more distant viewpoints in the LVIA to the south of the village, the intervening topography and vegetation limit direct views of the site and given the separation distance between the two settlements there would be no coalescence between Hulland Ward and Hulland village. From more distant viewpoints to the east, the development would be viewed in conjunction with the existing scattered development around the site and the new dwellings on the allocated site. For these reasons, I concur with the LVIA findings that from these wider vantage points the magnitude and significance of effect on landscape character would be negligible.

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<sup>3</sup> Reference 16/00832/OUT



16. At closer distances, development on site HC2(r) will result in changes to the character and appearance of this part of the village. However, that site is of relatively limited depth and development would not extend beyond the well defined edge of properties on Charles Walker Close and to the south of the A517. In contrast, the appeal proposal would protrude well beyond the edge of the built up area, creating a north-south emphasis which would be at odds with the prevailing west-east linear form of the village. It would extend and consolidate the built up area at a point where the built up area is thinning out towards open countryside, resulting in a significant urbanising effect.
17. A number of Public Rights of Way (PROW) run between Hlland Ward and Hlland village to the south. The first section of PROW FP14 off the A517 to the west of the appeal site is enclosed by the rear boundary fences of properties on Charles Walker Close and the hedges on the garden boundary of Les Ardennes. Thereafter it crosses open fields and affords longer distance views of the rural landscape to the south. When using the path in either direction, the presence of new development would erode the natural and open character of the site and would significantly detract from the experience of footpath users.
18. Whilst not identified in the LVIA viewpoints, the development would also be readily visible from the eastern most of the two footpaths to the side of Fields Farm. From this vantage point, the proposed development would appear as a harsh and jarring feature which would protrude into open countryside and would relate poorly to the form and character of the village.
19. The mitigation measures proposed in the LVIA would go some way towards reducing the visual impact of the development and there would be benefits from reinforcing and managing the existing hedge along the southern boundary. Conditions could be imposed to ensure that any reserved matters proposal provides for the retention of existing hedges and hedgerow trees and their management to strengthen landscape character. Nonetheless, in the short to medium term whilst these features mature the development would have a stark and harsh appearance due to its position beyond the existing developed edge and protruding into open countryside.
20. For the reasons outlined above, the appeal proposal would cause material harm to the form and character of Hlland Ward, its setting and the landscape character of the Sandstone Slopes and Heaths. For these reasons, I conclude in relation to the first main issue that there would be conflict with DDLP Policies PD1 and PD5 which require development to respect settlement and landscape character.

#### *Location*

21. Hlland Ward is a third-tier settlement within the DDLP settlement hierarchy, where Policy S2 seeks to focus new development within the settlement boundary in accordance with the scale, role and function of the settlement, unless otherwise indicated in the plan. Areas outside the settlements listed in the hierarchy are defined as countryside where development will be strictly limited to that which has an essential need to be located there.
22. As a third-tier settlement, Hlland Ward is a sustainable location for development with a number of services and facilities including a filling station and shop, doctor's surgery, three pubs, a village hall and a church. At



approximately 0.8 km away, these facilities are within a reasonable distance from the site.

23. Access to the village via Mugginton Lane End would be via the new access road serving the development on site HC2(r). Whilst a footway across the site frontage is shown on the site layout plans, there is no footway further to the west in front of 'Les Ardennes' where the grass verge is also very narrow. At my site visit, I observed regular movements of Heavy Goods Vehicles (HGVs) along Mugginton Lane End travelling to and from the Aggregate Industries premises to the south of the village.
24. The combination of walking on the carriageway, the absence of street lighting and proximity of HGV and other vehicle movements would be likely to dissuade new residents from walking this route. Furthermore, the legal status of the path in front of Charles Walker Close as a public right of way is unclear as indicated by the signs at either end and in representations. Whilst this is a civil matter, the lack of clarity on public access would be a further impediment to residents walking into the village.
25. The appellant's Transport Assessment concludes that pedestrian access would be enhanced by the footpath link to be provided from the south west corner of site HC2(r) to FP14 which connects with the A517 as shown on the indicative layout. I walked FP14 as part of my unaccompanied and accompanied site visits. Its restricted width, uneven surfacing and absence of lighting would make walking to access daily needs challenging, particularly for those with mobility difficulties, parents with pushchairs or accompanied by small children. The same issue with the path in front of Charles Walker Close would also arise on this route.
26. Cycling along local roads would be a sustainable transport option and bus services to larger centres including Ashbourne, Belper and Derby station are available from the bus stop on the A517. A Travel Plan to support sustainable transport options could be made a condition of any permission.
27. However, the site would not be in the optimum location to maximise the use of walking to access services and facilities to meet daily needs. Residents would be likely to use the private car and whilst journeys to the village would be short, this does not accord with the aims of DDLP Policy HC19 which indicates that new development should support the use of local pathway networks to improve choice of travel and ensure safe access to developments on foot. The Framework acknowledges that opportunities to maximise sustainable transport will vary from urban to rural areas. However, it also requires that a safe and suitable access should be available for all users and the development should enable and support healthy lifestyles including by layouts that encourage walking.
28. I acknowledge that pedestrian access from the proposed development on site HC2(r) to the village would be via the same routes. However, this proposal would result in an additional 17 dwellings in this location. Based on the circumstances of the site, the evidence before me and for the reasons outlined above I conclude that the site would be poorly located for pedestrian access to services and facilities, contrary to the provisions of the Framework and DDLP Policy HC19.



## 5YHLS

29. The Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against the housing requirement set out in adopted strategic policies. Paragraph 73 indicates that the supply should include an appropriate buffer, moved forward from later in the plan period to ensure choice and competition in the market for land.
30. The Council's latest calculations on the 5YHLS are set out in its Annual Position Statement (December 2018) (APS) for the relevant five year period 1.4.18 to 31.3.23. The APS sets out that a 10% buffer has been added to the supply of specific, deliverable sites. Whilst the HDT results have subsequently shown that 93% of the housing requirement has been delivered over the last 3 years, the appeal is being determined in accordance with the evidence before me which is the buffer set out in the APS. I emphasise, however that any findings which I make are based upon the evidence heard and the arguments put forward and are particular to this appeal.
31. The appellant argues that the APS should have a clear 'cut off' point of 1.4.18 and that the Council's assessment of land supply should not be continually updated as and when new information arises, such as the submission of reserved matters applications. Whilst I have been referred to the *Woolpit* decision<sup>4</sup> in support of that point, in that case, the Council sought to add sites to the supply beyond the cut-off point in its Annual Monitoring Report. That is not the case here. The Council has rolled forward the 5YHLS period and supplemented the information set out in its hearing statement. It is inevitable that circumstances will change and the Council's approach to capturing the latest available evidence has been proportionate.
32. Based on the DDLP requirement of 284 dwellings per year, addressing the shortfall of 410 dwellings since the start of the plan period (1.4.13), using the *Sedgefield* method and the application of a 10% buffer, the requirement for the relevant five year period is 2013 dwellings or 402 per year. This matter was agreed by the main parties in the additional Statement of Common Ground (additional SoCG).
33. However, the 5YHLS remained a matter of dispute between the parties. The Council considered that it could demonstrate a 5.57 year supply of specific, deliverable sites whilst the appellant's figure was 4.1 years. The additional SoCG listed five sites with planning permission and nine sites allocated in the DDLP where the 5YHLS is in dispute. In addition, the contribution from the area of the Peak District National Park that is within Derbyshire Dales District was also disputed. To clarify, I have used the appellant's figures<sup>5</sup> as the 'baseline' for my assessment.

### *Sites with planning permission*

34. The Planning Practice Guidance (PPG) provides further details of what may constitute 'clear evidence' having regard to the definition of 'deliverable' set out in Annex 2 of the Framework, including progress towards the submission of an application, site assessment work and information about viability, ownership or infrastructure. The APS does not include pro formas for sites with planning

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<sup>4</sup> Appeal Reference APP/W3520/W/18/3194926

<sup>5</sup> Appendix B of appellant's final comments dated 15.1.19



permission as at 31.3.18. Accordingly, there is no up to date information about developer intentions for start dates, rates of delivery or expected completion dates.

35. Whilst reserved matters applications have been submitted for the sites at Wheeldon Way, Hulland Ward (SHLAA site 208) and Main Road, Brailsford (SHLAA site 501) these applications are at an early stage and undetermined. There is no clear evidence of start dates, rates of delivery or expected completion dates and overall no clear evidence that housing would be delivered on both sites within five years. Consequently these sites should not count towards the supply.
36. However, the site at Dimple Road, Matlock (SHLAA site 141) has detailed planning consent for 11 dwellings until November 2020 and its current use as a car park does not constitute clear evidence that no dwellings will be delivered in the five year period. Although some time has elapsed since the Council confirmed the start of development at Chequers Farm, Wirksworth in 2014 (SHLAA site 83) (10 dwellings) this does not constitute clear evidence that no further progress will be made. The site at Wardmans, Wirksworth (SHLAA site 217) has detailed planning consent for 34 dwellings including a mill conversion. Whilst a subsequent application has been made for commercial units on part of the site, this does not constitute clear evidence that no dwellings will be delivered in the relevant five year period.
37. In summary, I consider that there is a realistic prospect that 55 dwellings could be delivered on these sites in the five year period and adding these to the appellant's assessment of supply from sites with planning permission (1360 dwellings) gives a total of 1415 dwellings with planning permission which would contribute to the five year supply.

*Sites allocated in the DDLP and National Park supply*

38. The other principal difference between the parties is accounted for by the delivery of sites allocated for housing in the DDLP. The appellant points to the lack of 'clear evidence' to support the Council's position that housing completions will begin on these sites within five years.
39. The APS includes the SoCGs submitted to the DDLP Examination and supplemented by later 'pro-formas' as evidence that housing completions will begin on the allocated sites in the next five years. The submitted SoCGs were compiled and submitted to the DDLP examination in 2017 prior to the changes to the definition of deliverable in the Framework. The quality of information submitted in the later pro-formas varies and in some instances, it is not clear who has completed the form and some information is redacted. A number of sites will require planning permission with consequent lead-in times for delivery on site. The information provided as part of the appeal evidence is limited, resulting in a level of uncertainty over the deliverability of sites.
40. Taking account of various matters including uncertainty about when full planning applications will be submitted and a lack of robust information about the progress of the schemes, I conclude that the Council's delivery assumptions on sites HC2(b),(e),(l),(p),(u) and (cc) are not supported by clear evidence that housing completions will begin within the five year period.



41. However, sufficient evidence has been supplied in the pro forma for the site off Gritstone Road, Matlock (site allocation HC2(w)) to demonstrate a realistic prospect of the phase 2 dwellings being delivered on this site, in addition to the 75 dwellings already permitted. Accordingly, 104 units could be delivered to the five year supply from this site, over and above the 75 units which were agreed by the parties.
42. The planning application at Tansley House Gardens, Tansley (site allocation HC2(bb)) is subject to a legal agreement and whilst there have been negotiations over the level of affordable housing to be provided, the pro forma demonstrates a realistic prospect and timescale for delivery. The site could realistically deliver 49 dwellings to the five year supply.
43. The planning application for the site at Thatchers Croft, Tansley (site allocation HC2(z)) is also subject to the completion of a s106 agreement. The Council's anticipated start date of 2019/20 may be on the optimistic side taking into account the timescale for a reserved matters application. However, the landowner is a developer and rolling the trajectory forward a year would still enable the site to contribute 19 dwellings to the five year supply.
44. In summary, I consider that 172 dwellings could be delivered on these allocated sites within the five year supply. Adding this figure to the appellant's assessment of 220 dwellings gives a total of 392 dwellings from DDLP allocations which would contribute to the five year supply.
45. The contribution from the Peak District National Park is based on anticipated completions of 20 dwellings per year. This element of supply was assessed through the DDLP Examination and found to be sound, based on past delivery rates and future contributions from deliverable sites. The contribution is confirmed in a Memorandum of Understanding through the Duty to Cooperate and it is not my role to re-run the examination of broad assumptions about housing land supply that has been conducted at the DDLP Examination sessions. The Council's approach to include 100 dwellings from the National Park towards the five year supply is justified.

#### *Overall summary on 5YHLS*

46. Based on the figures above the supply would be 1415 dwellings with planning permission, 392 on DDLP sites, 100 within the National Park and 75 dwellings on windfall sites giving a total of 1982 dwellings against a requirement of 2013. The Council is therefore unable to demonstrate a five year supply of land for housing. In these circumstances, the presumption in favour of sustainable development set out at paragraph 11 of the Framework is engaged.
47. This states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. As the proposal would not affect any of the protected areas or assets referred to under Footnote 6, it is the second part of the paragraph which needs to be applied.

#### *Other matters*

48. The Surface Water Drainage Strategy accompanying the planning application set out four options to deal with surface and foul water drainage. Had the



appeal been allowed, I am satisfied that conditions could have been imposed to secure appropriate details with any reserved matters application.

49. The Transport Assessment concludes that the proposed access serving site HC2(r) would provide a safe and suitable access point for the appeal site from Mugginton Lane End and that the proposal would not be harmful to highway safety on the local road network.
50. The proposal is in outline only at this stage and I see no reason why a satisfactory layout could not be secured at the reserved matters stage to ensure that the living conditions of adjoining occupiers would not be harmed.
51. Concerns have been raised about the impact on ecology but I note that the Derbyshire Wildlife Trust did not raise concerns subject to conditions to secure a badger survey, the retention of existing hedgerows and trees and the submission of a landscape and ecological management plan as part of any detailed proposal.
52. I have taken into consideration all other matters raised by the parish council and local residents but none lead me to a different conclusion on the main issues.

#### *S106 Agreement*

53. I have considered the obligations in the s106 agreement against the tests set out in the Framework, the PPG and the Community Infrastructure Levy Regulations 2010. In relation to affordable housing, the obligation is necessary to meet the requirements of DDLP Policy HC4 which requires 30% affordable on sites of 11 or more dwellings. Contributions towards secondary and post 16 education facilities of £3,694.09 per dwelling are required by Policy S10 which requires enhancements to education capacity to support the DDLP development strategy. The Council confirmed that there are no pooling restrictions in place.
54. I am satisfied that had the appeal been allowed, the obligations would have been necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the development. It therefore meets the statutory tests set out in paragraph 56 of the Framework.

#### **Planning Balance and Conclusion**

55. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for any determination, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Framework is an important material consideration. I have concluded that the presumption in favour of sustainable development as set out in paragraph 11 (d)(ii) of the Framework should apply in this case.
56. Whilst DDLP Policy S2 seeks to focus development within settlement boundaries, the phrase 'unless otherwise indicated in the Local Plan' indicates that there may be circumstances whereby an exception is made to this approach. In this context, criteria (i) of Policy S4 provides for development on the edge of settlement boundaries in the absence of a 5YHLS but this must be read in conjunction with its overarching aim to ensure that new development



protects and, where possible, enhances the landscape's intrinsic character and distinctiveness.

57. I attach substantial weight to the benefits of increasing the supply and choice of housing in the absence of a 5YHLS and in particular, the contribution that the scheme would make to increasing the supply of affordable housing. The appellant also confirmed that the scheme could make an early contribution to the 5YHLS given the developer interest in the site.
58. The contribution to the economic dimension of sustainable development would include the jobs created during construction and receipts from the New Homes Bonus and Council Tax. Money spent on goods and services in the area would support the local economy. New residents would also be likely to support local services and community groups, contributing to a thriving rural community. Overall, I afford the social and economic benefits significant weight in favour of the appeal.
59. In relation to education, the s106 agreement would mitigate the impact of the proposed development and is neutral in the overall planning balance.
60. On the other side of the planning balance, the proposal would harm the character and appearance of Hulland Ward and its setting within the wider landscape and would not be in a suitable location to support walking to and from village facilities. Whilst the conflict with DDLP Policies S2 and S4 has to be considered in the context of the land supply position, the conflict with DDLP Policies PD1, PD5 and HC19 carries substantial weight against the grant of planning permission in the overall planning balance. These conflicts are of sufficient importance that the proposal should be regarded as being in conflict with the development plan when read as a whole.
61. My conclusion is that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits and the proposal would not comply with the development plan, read as a whole. As a result, the application of paragraph 11 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
62. For the reasons outlined above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Sarah Housden*

INSPECTOR



**APPEARANCES**

FOR THE APPELLANT:	
Mr R Kimblin of Counsel	
Mr D Hutchinson	Principal Planner, Boyer Planning Ltd
Mr N Harris	Director, Boyer Planning Ltd
FOR THE LOCAL PLANNING AUTHORITY	
Mr J Bradbury	Development Manager
Mr M Hase	Policy Manager
INTERESTED PERSONS	
Mrs M Cox	Local resident
Mr D Cox	Local resident

#### DOCUMENTS SUBMITTED DURING THE HEARING

1. Five Year Housing Land Supply – Statement of Common Ground (Version 2) February 2019
2. Extracts from Planning Practice Guidance relating to the Definition of 'Deliverable'
3. Landscape Character and Design Supplementary Planning Document (September 2018)
4. Derbyshire Dales Local Plan (2017) and Policies Map
5. Plan accompanying reserved matters application for land off Wheeldon Way, Hulland Ward Drawing No 302 Revision P-00 Proposed Site Layout Plan
6. Site layout plan A001 accompanying reserved matters application for site HC2
7. Tables of 5YHLS calculations
8. High Court Judgement 2019 EWHC 128 (Admin) Gladman v SSCLG and Sedgemoor District Council
9. Letter dated 13.2.19 re appellant's agreement to pre commencement conditions
10. Costs application on behalf of the appellant dated 12.2.19

#### DOCUMENTS SUBMITTED FOLLOWING THE HEARING

1. Letter from Boyer dated 12 March 2019.





## Costs Decision

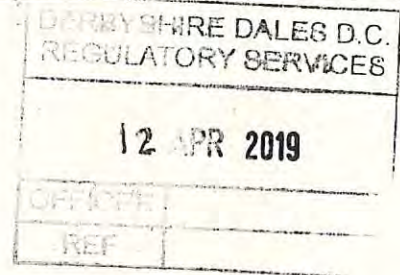
Hearing Held on 12 & 13 February 2019

Site visit made on 13 February 2019

by **Sarah Housden BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> April 2019



### Costs application in relation to Appeal Ref: APP/P1045/W/17/3188285 Land east of Les Ardennes, Mugginton Lane End, Hulland Ward, DE6 3EE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mrs Pamela Fox for a partial award of costs against Derbyshire Dales District Council.
- The hearing was in connection with an appeal against the refusal of planning permission for 'application (all matters except for access to be reserved) for the residential development of up to 17 dwellings with associated infrastructure (one access off Mugginton Lane End)'

### Decision

1. The application for a partial award of costs is refused.

### Procedural Matter

2. The appellant's written application for costs and the Council's verbal response were made before the close of the hearing.
3. The appeal scheme is a re-determination of an earlier appeal decision which was quashed by the order of the High Court.

### The submissions for Mrs Pamela Fox

3. The basis of the appellant's claim is that the Council adopted an unreasonable position in relation to the five year housing land supply (5YHLS), causing the appellant to incur additional work for the assessment of additional evidence provided by the Council in the run up to the hearing.
4. With particular reference to the *Woolpit*<sup>1</sup> decision, the appellant contends that the Council's Annual Position Statement (APS) on 5YHLS should not have been added to or supplemented by events and information occurring after the 'cut off' date for the relevant five year monitoring period, for example the submission of reserved matters applications. In this case, the Council's APS dealt with the five year period 1.4.18 to 31.3.23 based on monitoring data as at 31.3.18.
5. It is argued that as a result of the Council's approach, the appellant incurred unnecessary expense in relation to three work areas. These are preparing the

<sup>1</sup> Appeal Reference APP/W3520/W/18/3194926



final comments on 5YHLS which were contained in the appellant's letter of 15.1.19, work on 5YHLS between 15.1.19 and 11.2.19 when a revised Statement of Common Ground (revised SoCG) was agreed and for one day of the hearing on the basis that the appeal could have been determined by written representations had the 5YHLS position been agreed by the Council.

### **The response by Derbyshire Dales District Council**

6. The Council argues that unlike the *Woolpit* case, all of the sites discussed at the hearing were identified in the APS. The additional evidence provided sought to narrow down the number of sites in dispute and areas of disagreement which does not amount to a shift in the Council's position on the supply side. Furthermore, the Council argues that it could not have entered into the revised SoCG at an earlier stage in the appeal process.

### **Reasons**

7. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
8. At the start of the re-determined appeal the Council's latest assessment of land supply was based on the five year period from 1.4.17 to 31.3.22. The appellant indicated by letter dated 5.10.19 that the Council should prepare an up to date 5YHLS statement for the period 2018 - 2023 taking into account both the advice in the PPG on the evidence needed to demonstrate a deliverable supply and the implications of the *Woolpit* decision. The Council responded on 3.12.18 but the Appendix containing the 5YHLS APS was not with its statement. This was submitted on 14.12.18 and the date of the hearing was postponed from 15.1.19 to enable sufficient time for the appellant to respond taking into account the Christmas holiday period.
9. The PPG indicates that delay in providing information or failure to adhere to deadlines is one example of unreasonable behaviour by a local planning authority in relation to procedural matters where an award of costs may be made. Whilst the Council acted unreasonably in failing to provide the 5YHLS information in a timely manner, I have not been made aware of any additional expenses incurred by the appellant in responding to that information. Similarly, I have not been made aware of any additional expenses incurred as a result of the re-arranged hearing date.
10. The revised SoCG was done in response to my request to the parties to 'narrow down' the number of disputed sites for discussion at the hearing. The Council has acknowledged the erroneous calculation it made by using the Liverpool method to calculate the five year housing requirement and whilst unfortunate this does not amount to unreasonable behaviour.
11. In my decision on the appeal, I have treated the APS as the Council's annual update of 5YHLS but it does not have the status of an APS as provided for in paragraph 74 of the National Planning Policy Framework (the Framework). As such, it is inevitable that circumstances will change and it is reasonable that the decision should be made in the context of the most up to date information at the time of the appeal. Whilst I have found that the Council does not have a 5YHLS based on the evidence for specific sites, consideration of their

deliverability relies on planning judgement and a thorough examination of the evidence against the requirements set out in the Framework and PPG.

12. For the reasons outlined above I conclude that whilst the Council acted unreasonably by failing to submit the 5YHLS information in a timely manner, it has not led to unnecessary or wasted expense being incurred by the appellant and a partial award of costs is not justified.

*Sarah Housden*

INSPECTOR



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## Appeal Decision

Site visit made on 11 April 2019

by Jan Hebblethwaite MA Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 29 May 2019

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Appeal Ref: APP/P1045/D/19/3222736

Willow Cottage, Clatterway, Bonsall, DE4 2AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs C Draycott against the decision of Derbyshire Dales District Council.
  - The application ref 18/01074/FUL, dated 26 September 2018, was refused by notice dated 22 November 2018.
  - The development proposed is extensions to dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are the impact of the proposed extensions on the character of the host building and on the character and appearance of the Bonsall Conservation Area.

### Reasons

3. The host building (Willow Cottage) is an attractive semi-detached dwelling of traditional stone construction and design on the junction of the Clatterway and Black Tor Road. The walls of the cottage are rendered and painted. The cottage occupies a site above the Clatterway, with the original access to the cottage climbing up from the road. The Clatterway climbs steeply to the junction and then less steeply past the junction. The proposed extensions are to form a garden room with a pitched roof on the north western elevation and to construct a part two-storey and part single-storey extension with changes to the existing door, porch and windows.
4. Policies in the DDLP<sup>1</sup> and planning guidance in the BVDS<sup>2</sup> deal with the design of extensions to buildings in the area. In particular, Policy HC10 requires that to be acceptable, extensions to dwellings need to be of a high standard of design which complements the scale and style of the house. One of the criteria required to be met by the policy is that the height, scale, form and design of the extension is in keeping with the scale and character of the original dwelling **and the site's** wider setting and location.

<sup>1</sup> Derbyshire Dales Local Plan 2017

<sup>2</sup> Bonsall Village Design Statement

5. The cottage is raised above the Clatterway and views are restricted from the road immediately below the cottage, although the pitched roof of the garden room would be visible above and through the existing shrubs on the boundary. However, from further up the Clatterway, beyond the junction with Black Tor Road, the gable of the Cottage is very prominent because it is at the top of the very steep section of the Clatterway. The Bonsall Conservation Area Appraisal sets out that a distinctive feature of the village is that buildings have gable ends facing the road. The garden room with its full height glazing and the two-storey extension would change the appearance of the gable end to an extent that the character of the cottage would be lost.
6. Although the floor area of the proposed single and two-storey extensions is modest, the resulting roof scape is complicated, incorporating a new two-storey gable, a new single-storey porch and a single-storey element with a mono-pitch roof. Taken together and in the context of a traditional stone cottage, the proposed extensions would be unacceptably detrimental to the character of the host building.
7. For the same reasons, the proposed extensions would also cause less than significant harm to the character and appearance of the conservation area. Under paragraph 196 of the Framework<sup>3</sup>, such harm should be weighed against the public benefit deriving from the development. In this case, the proposed extensions are purely private and there is no public benefit to be assessed.

#### Other Matters

8. As part of my site visit, I viewed the properties referred to by the appellant as having extensions of the same kind as that proposed. Whilst I agree that they are examples of glazed sun rooms and gable extensions, I do not consider that they are directly comparable to the host dwelling, mainly due to its location and prominence when viewed from the Clatterway.

#### Conclusion

9. For the reasons given above and having taken into account all other matters raised, I conclude that the appeal should be dismissed

*Jan Hebblethwaite*

INSPECTOR

<sup>3</sup> National Planning Policy Framework 2019



## **BACKGROUND PAPERS**

The following documents have been identified in accordance with the provisions of Section 100(d) (5) (a) of the Local Government Act 1972 and are listed for inspection by members of the public.

Background papers used in compiling reports to this Agenda consist of:

- The individual planning application, (including any supplementary information supplied by or on behalf of the applicant) and representations received from persons or bodies consulted upon the application by the Local Planning Authority and from members of the public and interested bodies by the time of preparation of the Agenda.
- The Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and related Acts, Orders and Regulation and Circulars published by or on behalf of the Secretary of State for the Department for Communities and Local Government.
- The National Planning Policy Framework
- The Planning Practice Guidance

These documents are available for inspection and will remain available for a period of up to 4 years from the date of the meeting, during normal office hours. Requests to see them should be made to our Business Support Unit on 01629 761336 and arrangements will be made to comply with the request as soon as practicable.

**BACK TO AGENDA**