

This information is available free of charge in electronic, audio, Braille and large print versions on request.

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

06 January 2020

To: All Councillors

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday 14 January 2020 at 6.00pm** in the **Council Chamber, Town Hall, Matlock DE4 3NN**.

Yours sincerely

A handwritten signature in black ink, appearing to be "S. Lamb", written over a faint circular stamp.

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS: The Committee is advised a coach will leave the Town Hall, Matlock at 1.15pm 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 of any apologies for absence and substitute arrangements.

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Planning Committee – 03 December 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. Alternatively email committee@derbyshiredales.gov.uk or telephone 01629 761133.

	Page No.
4.1 APPLICATION NO. 19/01188/REM (Site Visit)	06 – 20
Approval of reserved matters for the erection of 57 No. dwelling houses (outline planning permission) 15/00814/OUT at Land adjacent to Bakewell Road, Matlock.	
4.2 APPLICATION NO. 19/01233/FUL (Site Visit)	21 – 32
Erection of dwelling house at Land South East of Strathallen Close, Darley Dale.	
4.3 APPLICATION NO. 19/01005/FUL (Site Visit)	33 – 42
Change of use of land, to use for the stationing of caravans for the purposes of human habitation, with associated engineering works (4 no. pitches accommodating a total of 5 no. mobile homes, 8 no. touring caravans and 4 no. amenity buildings) at Land East of Grove Lane, Somersall Herbert.	
4.4 APPLICATION NO. 19/00685/FUL	43 – 56
Proposed equestrian events course and schooling field with associated alterations to existing access and creation of parking area at Hough Park Farm, Brunswood Lane, Hulland Ward.	
4.5 APPLICATION NO. 19/01279/FUL	57 – 67
Retention of part single-storey, part two-storey building as converted for use as a dwelling house, including retention of flue serving wood-burning stove (resubmission) at Brackendale, Ashbourne Road, Brassington.	
5. INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS	68 – 76
6. APPEALS PROGRESS REPORT	77 - 101
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, Tom Donnelly, Richard FitzHerbert, David Hughes, Stuart Lees, Joyce Pawley, Garry Purdy and Peter Slack.

Nominated Substitute Members

Jacqueline Allison, Martin Burfoot, Paul Cruise, Helen Froggatt, Chris Furness, Susan Hobson, Michele Morley, Tony Morley, Peter O'Brien, Mike Ratcliffe, Mark Salt, 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
- h) 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 **1.15pm prompt** for the following site visits:

		Page No.
1.25pm	APPLICATION NO. 19/01188/REM LAND ADJACENT TO BAKEWELL ROAD, MATLOCK. At the request of Ward Member.	06 – 20
2.00pm	APPLICATION NO. 19/01233/FUL LAND SOUTH EAST OF STRATHALLEN CLOSE, DARLEY DALE. At the request of Officers to allow Members to assess the impact of the proposed dwelling house on the character and appearance of the area given its design.	21 – 32
3.15pm	APPLICATION NO. 19/01005/FUL LAND EAST OF GROVE LANE SOMERSALL HERBERT. At the request of Officers to allow Members to appreciate the proposal in the context of its surroundings.	33 - 42
4.30pm	RETURN TO TOWN HALL, MATLOCK.	

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.

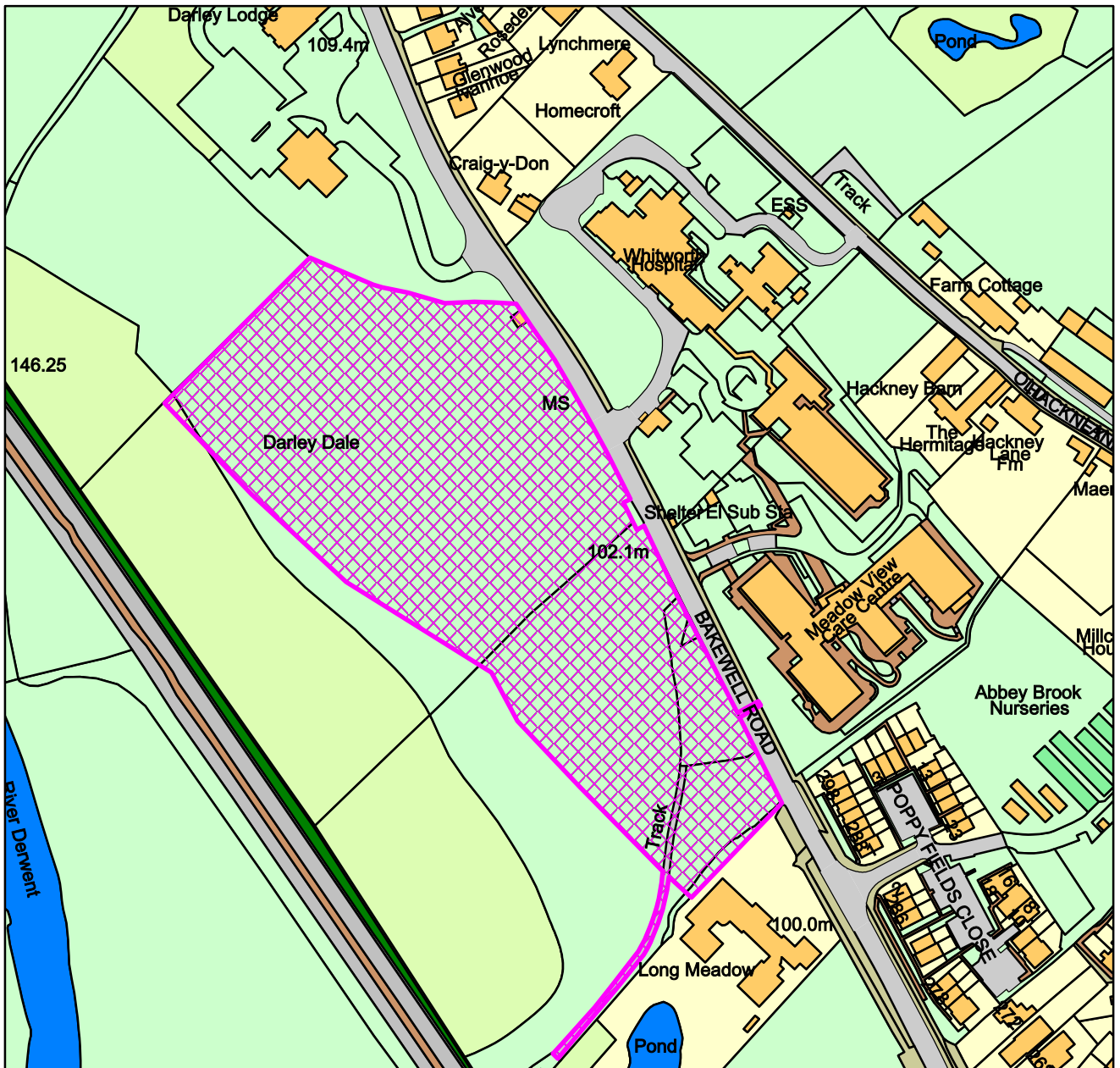
APPLICATION NUMBER		19/01188/REM	
SITE ADDRESS:		Land Adjacent to Bakewell Road, Matlock	
DESCRIPTION OF DEVELOPMENT		Approval of Reserved Matters for the erection of 57 No. dwellinghouses (Outline Planning Permission) 15/00814/OUT	
CASE OFFICER	Sarah Arbon	APPLICANT	Chevin Homes Ltd
PARISH/TOWN	Darley Dale	AGENT	Mr Richard Pigott
WARD MEMBER(S)	Cllr Andrew Statham Cllr Jason Atkin Cllr Mark Salt	DETERMINATION TARGET	20 th January 2020
REASON FOR DETERMINATION BY COMMITTEE	Major application	REASON FOR SITE VISIT (IF APPLICABLE)	Requested by Ward Member

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> – Principle of development – Impact on the character and appearance of the area – Impact on residential amenity – Public Open Space – Highway Matters – Drainage and Flooding – Ecology and Landscaping

RECOMMENDATION
<p>To delegate authority to the Development Manager to grant approval with conditions at such time the Variation of Condition 19/01140/VCOND decision is issued.</p>

19/01188/REM

Land Adj. to Bakewell Road, Matlock, Derbyshire



Derbyshire Dales DC

1:2,500

Date: 02/01/2020

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

The site comprises of two fields with a combined area of 2.2 hectares located to the south western side of the A6, opposite the Whitworth Hospital. The land slopes down from the road towards the railway. The site is grazing pasture with wet grassland occupying the lower fields below the site near the railway. There are mature trees within the fields and along the site frontage, with an established hedgerow dissecting the site. The site is on the outskirts of Matlock where existing development is concentrated on the north eastern side of the road.

The landscape character is of settled valley pastures landscape type of the Dark Peak landscape character areas. Key features include the stone roadside wall with associated Grade II Listed Milestone, the dividing hedgerow, mature field, roadside and embankment trees. The top part of the site is within flood zone 1 and the lower part of the site is within flood zones 2 and 3.

Land levels reduce significantly to the south west with a land level of 103.5 on the Bakewell Road adjacent to the bus stop and 93.5 adjacent to the trees to be retained to the rear of the existing hedgerow which is a difference of 9 metres.



2 DETAILS OF THE APPLICATION

- 2.1 Outline planning permission with all matters reserved (15/00814/OUT) was granted in January 2017 and this included a requirement under condition 22 to provide 30% affordable housing and 20% Specialist Housing. Members will recall at the last committee that they were minded to approve (subject to a the signing of a S106 Agreement) the variation to condition 22 to require 50% of the total number of homes delivered on the site to be affordable housing which would provide 11 bungalows to M4(3) accessibility standard as part of the affordable housing.

2.2 This application is for the Reserved Matters to the outline permission, namely access, appearance, landscaping, layout and scale. The proposal is for the erection of 25 bungalows and 32 houses in the north western part of the site. All of the developed area lies outside the floodplain adjacent to the south west. Dwellings would be served from a central spine road which involves curves and gradients with linked private drives off to the south west serving properties and identified by a difference in surfacing material to the main estate road. Two areas of open space are proposed which accord with the areas identified in the Outline condition 14. A Local Area of Play is proposed centrally and framed by existing mature trees with a larger area of informal open space in the south eastern part of the site incorporating the creation of formal path linking it to the footpaths Darley Dale FP26 and the Greenway (The White Peak Loop) that run over the railway line and parallel.

2.3 The variation of condition application would provide the following mix.

50% Affordable housing with the mix below:

2 x 2 bed houses (68m²)

2 x 3 bed houses (80m² minimum)

17 x 2 bed bungalows (70m²)

2 x 3 bed bungalows (83m²)

6 x 1 bed bungalows (50m²)

A total 29 dwellings would be affordable out of the total of 57 with 28 dwellings private. The tenure proposed for the affordable housing is 80% Affordable rent and 20% shared ownership.

The variation of condition shall be determined when the S106 Agreement is signed and the determination of this permission would need to follow the granting of this variation as it supersedes the original outline permission and would be linked to it.

2.4 The applicant has submitted the following documents with the application:

- Design and Access Statement (October 2019)
- Drainage Strategy Report (October 2019)
- British Standards 5837:2012 Tree Survey : Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (October 2019)
- Construction and Landscape Ecological Mitigation and Management Plan (October 2019)
- Review of November 2019 Flood Event Report (December 2019)

3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2017)

S4: Development in the Countryside

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

PD10: Matlock to Darley Dale A6 Corridor

HC4: Affordable Housing

HC11: Housing Mix and Type

HC14: Open Space and Outdoor Recreation Facilities

HC19: Accessibility and Transport

- 3.2 Emerging Darley Dale Neighbourhood Plan
 - NP1 – Protecting the Landscape Character of Darley Dale
 - NP10 – Protecting the Setting of the Peak District National Park
 - NP11 – Design Principles for C3 Residential Development
- 3.3. National Planning Policy Framework
- National Planning Practice Guidance

4 RELEVANT PLANNING HISTORY:

19/01140/VCOND - Variation of Condition 22 of planning permission 15/00814/OUT to allow for altered housing mix on any future Reserved Matters Application, Minded to Approve at 3rd December 2019 Committee subject to signing a S106 Agreement.

15/00814/OUT – Residential Development of up to 57 dwellings (Outline), Granted 23.01.2017

5 CONSULTATION RESPONSES

Darley Dale Town Council

- 5.1 Oppose this application on the grounds that the land is designated as a PD10 site under the Local Plan. For this application to go ahead it would break your own policies. They believe under S97 of the Town and Country Planning Act 1990 that the permission already granted should be revoked. Furthermore the flooding that occurred on the 7th and 8th November covered the entire site and the plans run very close to flood plain land this makes the flooding a material consideration. The most vulnerable people in our town will be placed on this site and to allow them to be placed on an area that is known to flood is problematic. They appreciate that a much needed crossing is coming with this application but this is needed whether the homes are there or not. The Council requests that a public consultation be held at the minimum and that it be refused and the granted application be revoked.

Strategic Housing Officer (Derbyshire Dales)

- 5.2 The Community Housing Team supports this application and has been working with the developer of this site for several months in order to support the delivery of affordable homes. The developer has been very responsive to the recommendations we have put forward in relation to property types, floor areas and the tenure profile of the site. In particular the proposed scheme has a significant number of bungalows which would be built to the M4(2) Building Regulations standard and which are designed for wheelchair users and people with disabilities. The floor areas of these proposed bungalows would be far higher than traditional social housing bungalows. This scheme would help alleviate housing need in the Darley Dale area and potentially reduce demand for disabled facilities grants. The proposed family accommodation reflects the housing needs within the community.

The Lead Local Flood Authority (Derbyshire County Council)

- 5.3 The limits of Flood Zones 2 & 3 are close together in the region of the lower boundary of the site and the lower houses in the layout are close to the limits of Flood Zones 2 & 3. Drone footage taken during flooding in the area on 7th and 8th November shows the limit of the floodwater in the area of the site approximately corresponding to the limits of Flood Zones 2 & 3. Whilst the proposals, in line with national guidance, limit dwellings to Flood Zone 1, the LLFA would advise caution in placing houses so close to the limits of the Flood Zones 2 & 3 as when a similar flooding event reoccurs residents will be on the cusp of flooding.

In a scenario where the river level rose to these levels, any surface water may not be able to discharge, therefore the houses could be at increased risk of pluvial and/or sewer flooding. The proposed minimum finished floor level is 94.57m AOD, as 600 mm above the

1% annual probability flood event plus 40% climate change. However, it is below the level of the 0.1% annual probability flood event (Flood Zone 2).

Buyers of the houses in the lower part of the development should be made aware of the flood risks within the site and provided with a suitable action plan in the event of similar flooding to that of the 7th/8th of November 2019.

The Environment Agency

- 5.4 The submitted documents for this application and the submitted Design and Access statement states in section 3.5 that the Finished Floor Levels will be set at 94.57mAOD in accordance with their condition on the Outline application (15/00841/OUT). Based on this there are no objections to the proposal.

The Highways Authority (Derbyshire County Council)

- 5.5 In terms of the layout put forward for consideration, irrespective of the sites future adoption status, the Highway Authority seeks to make sure that residential development site layouts are safe (both in terms of road safety and personal safety), they are accessible to all likely vehicles and other pedestrian users (including those with impaired mobility) and suitable long-term maintenance arrangements are in place to protect future residents. The footway extension to the south east of the site, as required within the outline consent is shown on the amended plan. However, the provision of the pedestrian crossing on Bakewell Road (contained within the Section 106 Agreement), needs to be shown. The pedestrian path within the site is indicated leading to the current bus stop location, however the bus stop will require relocating to accommodate the pedestrian crossing. There are two long straight sections of carriageway which appear to be in excess of 60m and speed would appear to be intended to be controlled by raised tables/humps which needs reconsideration. Swept paths for an appropriately sized refuse vehicle should be provided for the access, bends and turning heads within the adoptable areas. Swept paths for a supermarket delivery/ambulance type vehicle should be provided for the turning heads within the private drives. Footway or margins for some plots require revision and private drive accesses to the spine road should be formed by a dropped kerb crossing of the footway not by radius kerbs. A system of highway drainage does not appear to have been submitted. Whilst the development of the site remains acceptable in principle from a highway viewpoint there are some issues the Highway Authority is obliged to raise before the proposals may be considered fully acceptable. Comments on the amended plans that address the above comments shall be reported verbally.

The Designing Out Crime Officer (Derbyshire Police)

- 5.6 From a community safety and crime prevention perspective the proposal is acceptable with minor modifications.

Development Control Archaeologist

- 5.7 Considers that the outline permission 15/00814/OUT Condition 3 was attached to secure a scheme of archaeological work. Since granting of outline consent an initial scheme of archaeological evaluation trial trenching on the site was carried out, and a deposit of waterlogged wood was encountered in a palaeo-pond or palaeo-channel associated with the Derwent floodplain. Samples were taken for further study to enable this deposit and its significance to be established, but the report on this work and evaluation as a whole is still awaited. There is possibility that there is an Iron Age radiocarbon date associated with the waterlogged wood, and this means that the site would need further investigation with archaeological excavation and recording to an approved WSI before the commencement of development. On the basis of this preliminary investigation it is recommended that Condition 3 remains active and requires further archaeological investigation before discharge of the pre-commencement part a). Therefore there is no objection to the reserved matters

proposals but the applicant should be aware of the ongoing pre-commencement archaeological requirement under Condition 3 of the outline consent.

Derbyshire Wildlife Trust

- 5.8 The Construction and Landscape Ecological Mitigation and Management Plan (CLEMMP) required by conditions 7 and 8 of the Outline permission has been reviewed and is not considered sufficient with further detailed required on the biodiversity loss, the impact of the proposed drainage strategy on the marshland, details of protection, enhancement and creation of habitat and the updated Ecological Appraisal requires review.

Natural England

- 5.9 No objection.

Network Rail

- 5.10 The site is not adjacent to Network Rail infrastructure but Peak Rail Heritage Railway lines.

The Arboricultural and Landscape Officer (Derbyshire Dales)

- 5.11 There are no protected trees or ancient woodland within the site. The layout design has clearly been influenced by the existing trees with some integrated into the design. The mature Oak and Ash trees are to be integrated into the public open space and conditions are required to ensure they are not damaged during construction. The proposed tree planting is encouraging and a detailed planting plan and specification is required by condition. There are some shading concerns in relation to plots adjacent to Local Area of Play.

6 REPRESENTATIONS RECEIVED

- 6.1 Three representations have been received and these are summarised below:
- Is it sensible to consider such a development on or just by a flood plain? That area was under water last week and may be again.
 - The site is a flood plain and is basically marsh land and full of wildlife.
 - Matlock is slowly becoming overwhelmed by new housing estates putting more pressure on the Victorian drainage, GP Surgeries, schools and causing flood issues in the very near future.
 - The flood plain is not a sustainable location to build and regularly floods so permitting planning for houses here is clearly wrong and will put people's lives at risk and the properties won't be able to get flood cover.

7 OFFICER APPRAISAL

- 7.1 The following material planning issues are relevant to this application:
- Principle of development
 - Impact on the character and appearance of the area
 - Impact on residential amenity
 - Public Open Space
 - Highway Matters
 - Drainage and Flooding
 - Ecology and Landscaping

Principle of development

- 7.2 The site is part of the protected open space designation covered by policy PD10 of the Adopted Derbyshire Dales Local Plan which states:-

In order to safeguard the intrinsic character and quality of the open spaces through the Derwent Valley between Matlock and Darley Dale, and to prevent the further coalescence

of the settlements of Matlock and Darley Dale, the District Council will resist development proposals which threaten the open spaces identified on the Policies map unless:

- a) The development is required for the purposes of agriculture, forestry or outdoor recreation;*
- b) The development does not have an adverse impact upon the character of the area including views into and out from the Derwent Valley.*

- 7.3 Whilst this policy would provide protection to the site if development does not proceed, it does not prevent the extant planning permission 15/00814/OUT varied by 19/01140/VCOND overriding this and providing a presumption in favour of development.
- 7.4 The Town Council have mentioned that due to the recent flood events the original outline permission should be revoked. At the time the outline permission was considered the submitted Flood Risk Assessment was reviewed which indicated that the developable area did not extend within Flood Zones 2 and 3. The Reserved Matters application is in accordance with this permission and the parameters stipulated within it. Flooding is discussed in a section below, however, both the Environment Agency and Local Lead Flood Authority are satisfied that the recent flood waters did not extend beyond the line of the Flood Zones that were used to assess the outline application. In any case, it is not open to a local authority to deny the approval of reserved matters submitted within the validity period of an outline permission, so as to, in effect, revoke the permission. Planning Practice Guidance advice on the award of costs, explains at para.049 that a planning authority may be at risk of an award where it refuses to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage. In *Barratt (Luton) Ltd v SoS & Mid Bedfordshire DC* 21/11/1988 it was held that it was too late at the reserved matters stage to contend that an acceptable solution to a reserved matter could not be found.
- 7.5 Therefore notwithstanding the Local Plan designation and the understandable concerns of the Town Council in relation to flooding as the principle of the residential development has been established by the outline consent 15/00814/OUT the focus of consideration for this application should concentrate on the reserved matters of:-
- a) the scale of the development;
 - b) the layout of the development;
 - c) the external appearance of the development;
 - d) access, and;
 - e) the landscaping of the site.

Impact on the character and appearance of the area

- 7.6 The following consideration is given to the scale, layout and appearance of the development which form three of the reserved matters. The principal policies for consideration are Policies S1 (Sustainable Development Principles), PD1 (Design and Place Making) and PD7 (Climate Change) of the Adopted Local Plan (2017).
- 7.7 Policy S1 advises that all development should seek to make a positive contribution towards the achievement of sustainable development and, in doing so, seek to secure development which is of high quality, locally distinctive and inclusive design and layout and which provides a high standard of amenity for all existing and future occupants of buildings. Policy PD1 advises that there is a requirement that the new development creates well designed, socially integrated, high quality places and should respond to the challenge of climate change whilst also contributing to local distinctiveness and sense of place.
- 7.8 Policy PD7 advises that the District Council will promote a development strategy that seeks to mitigate global warming and requires new development to be designed to contribute to achieving national targets to reduce greenhouse gas emissions by reducing energy consumption and providing resilience to increased temperatures and promoting the use of

sustainable design and construction techniques to secure energy efficiency through building design. These Policies align with the most recent Government guidance contained in the National Design Guidance published in October 2019.

- 7.9 The proposed layout has to be considered in relation to the significant differences in land levels across the site. The three properties at the entrance to the site would be 2.1metres lower than the road level and 2.9m lower than the top of the stone boundary wall on this boundary. The layout has been designed to have the bungalows adjacent to the road boundary in the north western corner in order to retain the views over the valley. Therefore, the nearest bungalow to the road would have its ridge 1m above the existing level of the stone wall and in between the rear boundary of this plot there would be retained trees and new planting acting as both a buffer and screen. The ridges of two storey houses would be 3 – 4.5m above the level of the stone wall at a distance between 9-24 metres. The finished floor levels of the dwellings from the north eastern boundary to the south western boundary differs between 3.3m to 3.75m.
- 7.10 The proposed layout includes an entrance framed by stone dwellings with hedging enclosing the front gardens and stone boundary walls with landscaping to the front. The largest area of public open space would be overlooked by dwellings and a formal footpath is proposed through this area to link to the existing routes on the opposite side of the railway. A buffer of land is retained adjacent to the open fields to the south west with 400mm deep dry swales along this boundary and two ponds which are part of the sustainable drainage of the site. This area would have a new path linking the areas of public open space with the play area and a path is also proposed to link to the existing bus stop with the north eastern section framed by new trees. A Local Area of Play would be provided near the centre of the site which is framed by the two mature trees to be retained and with front elevations of dwellings providing natural surveillance.
- 7.11 In relation to the requirements of Local Plan Policy PD7 the Design and Access statement submitted outlines that the dwellings would be highly insulated with a low heat demand meeting the requirement of the Building Regulations 'fabric first' approach. High efficiency condenser boilers would be installed together with reducing water consumption through the types of flush, taps, baths, dishwashers and washing machines installed. Surface Water management would be through the SUDS system. Dwellings would be constructed with a minimum number of materials meeting at least a 'D' grade in the BRE's Green Guide. A site waste management plan (such as Considerate Constructors), provision of adequate space for waste storage for each dwelling, passive drying space, energy efficient lighting, cycle storage and provision of a room that could serve as a home office are also proposed. All these provisions contribute to the proposal complying with Policy PD7.
- 7.12 The design of the dwellings is considered to be acceptable with a mix of features such as bays, gables and stone surrounds. Low level windows are a prerequisite for this development as a high proportion (50%) would be M3 (4) wheelchair accessible dwellings. The dwellings whilst picking up features of properties in the vicinity would also read as a whole development which would complement the existing high quality developments opposite at the Whitworth Hospital and dwellings on Bakewell Road and Poppy Fields Close to the south east. The concept of using the existing land levels to minimise the impact of the development on the landscape by having the bungalows on the higher land levels nearest to the road with two storey dwelling on the lower land than further from the road is considered to reflect the character of the area. The types of dwellings would be flexible for future needs and their design quality reflects the site's context. The retention of the large area of open space in the south eastern part of the site together with section along the south western boundary aids the site's assimilation into the landscape of the area. The public open space and linkages between them are well designed with a high level of natural surveillance to reduce crime and ensure the safety of residents. Therefore, in relation to scale, layout and appearance the proposal is considered to accord with Local Plan Policies S1 and PD1.

Impact on residential amenity

- 7.13 Policy PD1 requires development achieves a satisfactory relationship to adjacent development in relation to visual intrusion, overlooking, shadowing and overbearing impacts. To the north east of the site is the extension to the Whitworth Hospital site. Development of this site can be accommodated without having a detrimental impact upon the amenity of the future occupants of this facility due to the distances and land levels differences between the two sites. Views from the Meadow View Care facility would be maintained as it would be opposite the large area of open space.
- 7.14 To the south east of the site is the Long Meadow Care home which would be adjacent to the open space and biodiversity enhancements. It is therefore considered that the development will not have any adverse impacts upon the occupants of that unit.
- 7.15 To the north of the site is a commercial development. There is ample outdoor space around that property and buffer planting between the sites to ensure that development does not cause any adverse impacts to that business operation. Within the site sufficient distances are proposed between main elevations and generous rear gardens are proposed for the two storey properties. In terms of impact upon amenity the site can be developed without causing any harm to residential amenity or adverse impacts upon adjacent health and commercial sites in accordance with Local Plan Policy PD1.

Public Open Space

- 7.16 Condition 14 of the Outline application states the following:

The submission of the reserved matters shall incorporate open space on the site in accordance with the illustrative masterplan, leaving the area to the south east of the indicative development area free from any development. Prior to the commencement of development a detailed management plan for the provision and long term maintenance of the public open space and children's play area shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details and completed prior to the occupation of the final unit.

- 7.17 The submitted layout accords with the parameters set at outline in terms of the location and size of the public open space and Local Area of Play. A Construction and Landscape Ecological Mitigation and Management Plan has been submitted with this application with has been reviewed by Derbyshire Wildlife Trust. Further changes to this document are required and in any case, it is a requirement of the above condition and should be dealt with as a discharge of condition rather than as part of this application. Therefore, the Wildlife Trust's comments on this document have been noted by the applicant and the report shall be revised accordingly and submitted through a discharge of conditions application in due course and prior to commencement of development as stated.
- 7.18 The Fields in Trust guidance on Local Area for Play (LAPs) is that they should be a minimum of 0.01 ha with an activity zone of 10m x 10m and they should have a 5 m minimum separation between the activity zone and the boundary of the dwellings. These standards can be achieved within the proposed layout. The proposed area totals 0.16 ha but includes an informal area of pathways surrounding the mature trees together with the LAP in the centre. Whilst detailed plans of the equipment have not been submitted it is envisaged that it would be a natural play area with log type equipment in order to assimilate into the adjacent landscape. A condition requiring the detailed layout and specification of the equipment shall be attached to any permission.

Highway Matters

- 7.19 Conditions 11, 12 and 13 of the outline permission relate to the relocation of the bus stop, provision of a footpath along the A6 to link to the bus stop and footpath and cycle link . The amended layout indicates an access with visibility splays of 62.9m to the east and 62m to the west. The access visibility and gradient are controlled by conditions 16 and 19 of the outline. A new crossing point across the A6 for pedestrians to access the Whitworth extension opposite is secured by the S106 associated with the outline permission. In relation to the proposed footpath, there is a designated heritage asset at the frontage of the site which is a milestone; this milestone requires careful consideration to ensure no damage to the listed structure and this is controlled by the discharge of condition 12. The Local Highway Authority have requested a swept path analysis and amendments to the layout to achieve sufficient parking and manoeuvring within the site and any further comments plus any conditions shall be reported verbally at committee.

Drainage and Flooding

- 7.20 Whilst this application relates to the details of the reserved matters, recent flooding events have caused understandable concern in relation to this site and in light of this the agent has reviewed the flood photos and drone footage. The agent has provided a summary of the advice received from their Engineers in relation to the drone footage of the recent flooding and they advise that the recorded flood event appears to follow the line of Flood Zone 3 as shown on the Environment Agency Flood Maps. They have provided the mark-up on the photographs to indicate that the flood waters rose no higher than the large tree to be retained in the centre of the site. The proposal would only involve building on the top half of the field with the proposed finished floor levels 1 m above the level of the tree. The Lead Local Flood Authority has reviewed the drone footage taken during flooding in the area on 7th and 8th November and considers that it shows the limit of the floodwater in the area of the site approximately corresponding to the limits of Flood Zones 2 & 3.
- 7.21 The applicant's consultants have produced a report on the flooding event in November 2019 which reaches the following conclusions. The photographed flood extent was digitised and compared with the flood outlines produced by the Environment Agency's calibrated model representing Flood Zones of different amplitude (or return period) in Matlock. Given the steepness of the site, an accurate comparison could not be undertaken, although it was estimated that the return period of the event photographed by the drone was somewhere between 1 in 50-year (2% Annual Exceedance Probability or AEP) and 1 in 1,000-year (0.1% AEP). A more accurate estimation was made by comparing the calibrated model results at Matlock Bath with the water levels monitored by the local gauging station. Results indicate that the maximum water level which was recorded by the gauging station on 8/11/2019 at 9:30a.m was similar to the modelled peak level from a 1 in 75-year (or 1.33 AEP) flood event simulation. Given the relatively small sizes (and thus influence) of the tributaries discharging in the River Derwent's channel between the site and the gauging station (the biggest one being the Bentley Brook), it is estimated that the flood event that took place at the proposed development site has a similar amplitude. With consideration of the standard of protection the residential scheme was designed to, it is therefore concluded that the proposed development would not be impacted by fluvial flooding nor generate any detrimental impact across third party land if an event similar to the November 2019 was to re-occur in the future.
- 7.22 The Environment Agency had no objection to the outline application and the submitted Flood Risk Assessment and in relation to the Reserved Matters stipulate that the finished floor level of the housing should be set 600mm above the 1% (1 in 100 year floodplain) at 94.5m AOD. The layout plan indicates the finished floor level of all of the proposed dwellings are above this level with the lowest at 95m AOD. On this basis, the proposal accords with the details of the FRA which remains pertinent as the flood zones have not changed, in accordance with PD8.

- 7.23 The Drainage Strategy submitted indicates a combination of dry swales, ponds with a below ground pumping station and attenuation tank in the southern part of the public open space to the south east of the site with a proposed discharge into the existing watercourse to the south of the site's boundary. The Wildlife Trust have raised concerns regarding the retained marshland habitat in association with this proposed sustainable drainage scheme (SUDs). The SUDS scheme is not approved as part of this permission as it is subject to the discharge of conditions 4 and 5 in consultation with the Lead Local Flood Authority.

Ecology and Landscaping

- 7.24 Detailed ecological surveys were submitted with the outline and an updated ecological assessment was undertaken in July 2019. This found the habitats to be broadly similar, albeit with greater scrub and tall ruderal encroachment into the grassland habitat within the higher part of the site. This survey incorporated a botanical assessment of the marshy grassland habitat which has potential to support protected species which is to be retained. Derbyshire Wildlife Trust has considered the proposal and have concluded that more work is required as there is concern that there is potential for the development to impact on the marshy grassland adjacent to the site which is vulnerable to pollution, changes in hydrology and changes in management. These issues and the long-term viability of managing the remaining areas of marshy grassland are protected by conditions 7 and 8 of the outline in consultation with Derbyshire Wildlife Trust.
- 7.25 The submission includes an Arboricultural Impact Assessment, Method Statement and Tree Protection Plan in relation to retained trees together with an indication of tree planting within the layout. On this basis, as this sets out the landscaping requirement in terms of numbers and locations of trees and hedging, it is considered sufficient to be included within the Reserved Matters. However, a detailed landscaping scheme detailing species and planting heights together with implementation is required by condition.

Conclusion

- 7.26 This proposed scheme is considered to provide an acceptable quality of development both in terms of its layout and design which follows the recognised design principles of providing an accessible, inclusive development for future residents with good links to the surrounding area and reflecting the character of the area. It involves the retention of a large area of public open space together with the provision of an equipped play area. It provides accessible dwellings that are flexible with a high percentage meeting the accessible dwellings standard of M4(3). The land levels of the site are utilised to retain views of the valley with its boundaries softened by buffers and tree and hedge planting. The layout also achieves accessibility through the site that would benefit existing residents in the area with the creation a formal footpath that links to existing routes. On this basis, the application is supported.

8 RECOMMENDATION

To delegate authority to the Development Manager to grant approval at such time the Variation of Condition 19/01140/VCOND decision is issued subject to the following conditions:

1. This consent relates solely to the application as amended by the revised plan(s) received by the Local Planning Authority on the 17th December 2019 numbered 1200 Rev K, 1202 Rev A, 9010 P05, 9300 P04, 9301 P04, 9600 P04, 9700 P04, 9701 P05, 9702 P05, 9900 P05 together with the Site Location Plan no. 1020-001B and Topographical Survey 1384 Rev 0 and 9500 P06, 9501 P06 and 9000 P02 received on the 20th December 2019.

Reason:

For the avoidance of doubt.

2. Samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before any work to any external surface is carried out. This shall broadly in accordance with the submitted Plot Type Materials Plan No.1202 Rev A in terms of plots in stone or brick. The development shall thereafter be constructed in accordance with the approved details.

Reason:

To ensure a satisfactory external appearance of the development in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy PD1.

3. Details of the overall height, coping and materials of construction of the proposed boundary wall(s) shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on any boundary wall. The development shall be constructed in accordance with the approved details.

Reason:

To ensure a satisfactory external appearance of the development in the interests of visual amenity in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy PD1.

4. Notwithstanding the submitted plan no.1201 Rev A, prior to erection, details of the design, external appearance and decorative finish of all fences, gates and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be carried out in accordance with the approved details prior to the development being first brought into use.

Reason:

In the interests of visual amenity and the character and appearance of the area in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy PD1.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of the dwellings on plots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 forming part of the development hereby permitted.

Reason:

In the interests of the visual amenity of the surrounding area in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy PD1.

6. No development shall commence on the construction of any building until full details of the laying out of the Local Area of Play which shall include the equipment specification and hard and soft landscaping has been submitted to and approved in writing by the Local planning Authority. The development shall be carried out in accordance with the approved scheme unless the Local Planning Authority gives its written consent to any variation.

Reason:

To ensure the satisfactory provision of open space in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy HC14.

7. No dwelling shall be first occupied until:-
 - a) A scheme for the laying out and equipping of the play area shown on the plan submitted in relation to condition 6 above, to include landscaping, boundary treatment and

provision for future maintenance and safety checks of the equipment has been submitted to and approved in writing by the Local Planning Authority and;

b) The play area has been laid out and equipped in accordance with the approved scheme.

Reason:

To ensure that the play area is provided in a timely manner in the interests of the amenity of future residents in accordance with Adopted Derbyshire Dales Local Plan 2017 Policies PD1 and HC10.

8. 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;
 - d. soil preparation, cultivation and improvement;
 - e. all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
 - f. grass seed mixes and sowing rates;
 - g. finished site levels and contours;
 - h. means of enclosure;
 - i. car park layouts;
 - j. other vehicle and pedestrian access and circulation areas;
 - k. hard surfacing materials;
 - l. minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
 - m. proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
 - n. retained historic landscape features and proposed restoration, where relevant.

Reason:

To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy PD5.

9. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. 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 ensure a satisfactory standard of landscaping in the interests of amenity in accordance with Adopted Derbyshire Dales Local Plan 2017 Policies PD1 and PD5.

10. Notwithstanding the submitted details all verges shall be given a plain mortared finish without the use of bargeboards and all rainwater goods, which shall be black in colour with details first submitted and approved in writing by the Local Planning Authority prior to installation.

Reason:

To protect the external appearance of the buildings in accordance with Adopted Derbyshire Dales Local Plan 2017 Policy PD1.

9 NOTES TO APPLICANT:

1. 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 revised proposals which overcame initial problems with the application relating to the layout, design of housetypes and highway issues.
2. With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 21 of the General Development Procedure Order. 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 £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.
3. This decision notice relates to the following plans and documents:

1200 Rev K, 1202 Rev A, 9010 P05, 9300 P04, 9301 P04, 9500a P05, 9600 P04, 9700 P04, 9701 P05, 9702 P05, 9900 P05 together with the Site Location Plan no. 1020-001B and Topographical Survey 1384 Rev 0.

Arboricultural Impact Assessment, Method Statement and Tree Protection Plan Dated Oct 2019 and Plan No. RSE_3099_TPP V1

Design and Access Statement

Planning Statement

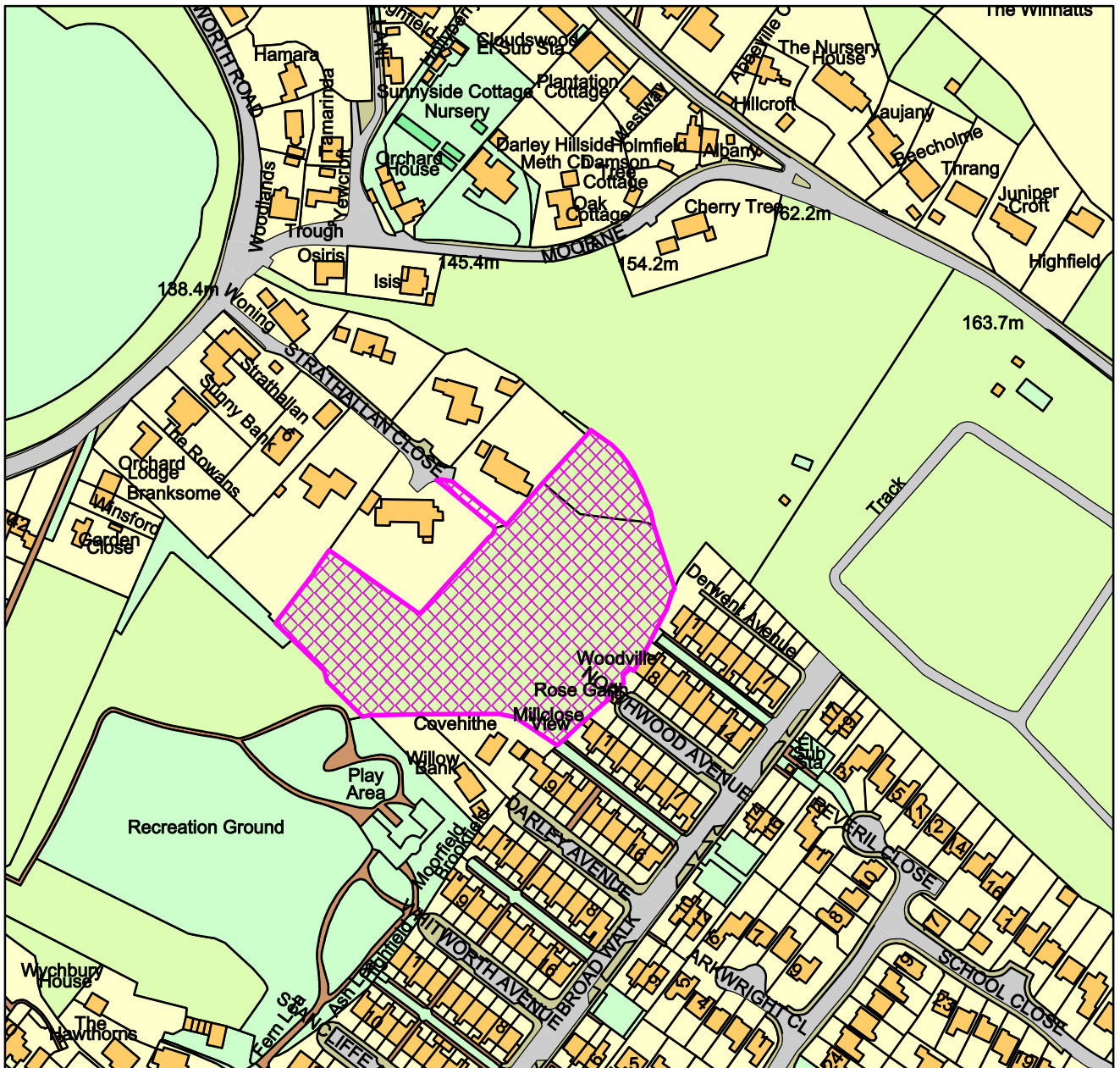
APPLICATION NUMBER		19/01233/FUL	
SITE ADDRESS:		Land South East of Strathallan Close, Darley Dale	
DESCRIPTION OF DEVELOPMENT		Erection of Dwellinghouse	
CASE OFFICER	Mr. G. A. Griffiths	APPLICANT	Mr. and Dr. R. and G. Bryant
PARISH		AGENT	
WARD MEMBERS	Cllr. J. Atkin Cllr. M. Salt Cllr. A. Statham	DETERMINATION TARGET	23 rd December 2019
REASON FOR DETERMINATION BY COMMITTEE	Requested by a Ward Member	REASON FOR SITE VISIT (IF APPLICABLE)	To assess the impact of the proposed dwellinghouse on the character and appearance of the area given its design

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • Principle of the development • Impact on the character and appearance the area • Impact on trees and landscaping • Ecology • Impact on residential amenity • Highway matters

RECOMMENDATION
Approval

19/01233/FUL

Land South East of Strathallan Close, Darley Dale



Derbyshire Dales DC

1:2,500

Date: 02/01/2020

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 application site is an area of vacant land accessed via a narrow route at the end of Strathallan Close between existing garden boundaries. Strathallan Close is a private road serving six detached dwellings of varying design and appearance sat in larger plots. To the south east of the site are the terraced rows of dwelling accessed off Broadwalk. The site is bounded by trees none of which are protected. . The site is within the Settlement Boundary of Darley Dale.





2. DETAILS OF THE APPLICATION

- 2.1 Outline planning permission (ref: 15/00865/OUT) was granted in February 2017 to erect a dwelling on the northern part of the wider site. The applicants now seek full planning permission to build a dwellinghouse on this same part of the site. The dwellinghouse is proposed to be two storey to the front with single storey elements to the rear on a raised land level. The accommodation is proposed as follows:

Lower ground floor

- faced with rubble stone, with deep recessed windows
- to measure some 22m by 12.5m (max)
- to provide four bedrooms, two ensembles, a dressing room, bathroom, laundry, store and lift

Upper Ground Floor

- faced with timber on the front and part of the north west side elevation with coursed stone to the remaining elevations with some timber detailing
- the mono-pitched roofs are proposed to be metal clad
- to be in a roughly 'reversed J shaped' form
- the principle element is to measure some 15m wide by some 6.2m deep off which is a 2.2m wide projection (bootroom) attached to a 12.8m by 6.6m building (garage/workshop/car port). The 'cranked' element (lift/staircase/study/accessible bathroom) measures some 10.5m by 4.5m)
- to provide a sitting room, dining/kitchen, study, accessible bathroom, boot room, lift, porch, craft workshop, garage workshop and a car port.

The applicant has detailed solar panels to be provided on the south facing (front) elevation of the building.

- 2.2 It is proposed that the domestic curtilage would be contained around the building and as far down as the access into the site. Whilst there is a substantial area to the south of the site that is essentially part of the land ownership, the applicants have advised that they wish to utilise this as an area for wildlife. A Concept Masterplan has been submitted showing the proposed landscape strategy for the whole site, and how the 'green corridor' will be maintained and enhanced. It is advised that the building and hard-landscaped area occupy a small proportion of the site and, overall, the proposal will make a positive contribution to the natural environment and increase biodiversity. The area to the rear of the building would form parking and manoeuvring space and would be contained in part by a wall retaining the land on which trees would remain to the rear of it.
- 2.3 The applicant has submitted an Arboricultural Report describing the condition of all the trees in the vicinity of the building. All other trees within the site, as shown on the Landscape

Masterplan, are proposed to be retained. Of those in proximity to the house, two sycamore trees initially specified for removal will now be retained (report ref: G1). Sycamore (ref T4) requires removal to allow sufficient space for the parking and turning area. A small number of other low and moderate quality trees to the rear (north-east) of the house need to be removed. The applicant considers that this is sufficiently mitigated with the retention and protection of the remainder of the trees on site, as well as a comprehensive landscape scheme including significant tree planting as shown in the Landscape Masterplan. The applicant has also submitted a Preliminary Ecological Assessment.

- 2.4 In terms of highway matters, the applicants' consultant has advised that the proposed driveway turning area is sufficient to turn a light delivery vehicle with a slight adjustment to the initially proposed retaining wall to improve access and tree protection.
- 2.5 The applicants advise that, in order to secure the future development of this site with a new dwelling, if this full application is refused or not determined by 2nd Feb 2020, they will submit a reserved matters application for a scheme that is entirely within the previously specified site area.

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
 - PD1 Design and Place Making
 - PD3 Biodiversity and the Natural Environment
 - PD5 Landscape Character
 - PD6 Trees, Hedgerows and Woodlands
 - PD7 Climate Change
 - PD8 Flood Risk Management and Water Quality
 - HC1 Location of Housing Development
 - HC21 Car Parking Standards
- 3.2 Emerging Darley Dale Neighbourhood Plan
 - NP1 Protecting the Landscape Character of Darley Dale
 - NP2 Protecting the Landscape Character of Darley Hillside
 - NP10 Protecting the Setting of the Peak District National Park
 - NP11 Design Principles for C3 Residential Development
 - NP12 Design Principles for C3 Residential Development in Darley Hillside
- 3.3 National Planning Policy Framework
- 3.4 National Planning Practice Guidance
- 3.5 National Design Guidance

4. RELEVANT PLANNING HISTORY

15/00865/OUT Erection of dwelling (outline) - Granted

5. CONSULTATION RESPONSES

Town Council

- 5.1 - object on the grounds that it does not comply to the emerging Neighbourhood Plan Policy 1.c in keeping the openness between the settlements of Darley Dale maintained
- it is being built on land that should be kept empty to maintain this separation.

Local Highway Authority (Derbyshire County Council)

- 5.2 - had various concerns with outline planning application and requested conditions which do not appear to have been addressed with this full application
- parking and manoeuvring have been shown
 - wish to see swept path details showing that a small delivery vehicle can manoeuvre within the site
 - provide list of conditions requested for the outline planning permission
 - understand that sightlines for the junction of Strahallan Close and Whitworth Road have been resolved but exit visibility lines across third party land are not acceptable.

Derbyshire Wildlife Trust

- 5.3 - have reviewed the Preliminary Ecological Appraisal and consider that it provides sufficient information to address potential impacts
- support the recommendations (5.3 – 5.9) made in the report
 - request a condition that development shall be carried out in strict accordance with the mitigation strategy/measures detailed in section 5.3 to 5.9 of the Preliminary Ecological Assessment

Arboriculture and Landscape Officer (DDDC)

- 5.4 - no objection subject to the development being carried out in accordance with the amended Arboricultural Survey Report and Methodology

6. REPRESENTATIONS RECEIVED

- 6.1 A total of three letters of representation have been received from local residents. A summary of the representations is outlined below:

- seems applicants have gone to considerable time and trouble to secure a home that will sit well in the immediate locality and hope the application will be approved
- sympathetic and well-designed building that sits very well within the landscape
- feel strongly that the site is an important wildlife corridor between conifer woodland and a playing field and should be kept that way
- regularly monitor birdlife and a variety of birds regularly use the site
- there are several attractive trees on the site useful for wildlife such as silver birch, rowan and hawthorn
- evidence of protected species
- for these reasons welcome the stated intention of the applicants to leave the rest of the site, apart from the planned house, as a semi-wild area that keeps most of the trees intact and any further changes to the site should be strongly resisted

7. OFFICER APPRAISAL

Principle of Development

- 7.1 The site is within the Settlement boundary of Darley Dale and therefore the principle of residential development is acceptable.
- 7.2 The Town Council has referred to the emerging Darley Dale Neighbourhood Plan and to Policy NP1.c which relates to keeping the openness between the settlements of Darley Dale maintained. To this end, the Town Council advises that the development is proposed on a site that should be kept empty to maintain this separation. However, whilst post-Inspection, the referendum on Darley Dale Neighbourhood Plan will not be held until Tuesday 21st January 2020.
- 7.3 Paragraph 48 of the National Planning Policy Framework (NPPF) advises that Local Planning Authorities may give weight to relevant policies in emerging plans depending on

their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency to the NPPF. As this Plan is not yet adopted, it can be attributed only limited weight, albeit the draft policies are considered in the assessment below. However, notwithstanding this, it must be noted that the site currently has outline permission in any event for a dwellinghouse and, therefore, as the principle of development is established, the matters for assessment are considered to be the following:

- Impact on the character and appearance the area
- Impact on trees and landscaping
- Ecology
- Impact on residential amenity
- Highway matters.

Impact on the Character and Appearance of the Area

- 7.4 The dwellinghouse is proposed to have a contemporary appearance of a chalet sat on a stone plinth. Whilst the architecture is modern, this reflects on how the buildings along Strathallan Close have developed over a long period of time with traditional dwellinghouses fronting onto Whitworth Road, the addition of bungalows in the late 1970's/early 1980's, and the recent addition of a timber faced, two storey dwellinghouse to the rear of Strathallan in around 2014. The streetscene is therefore of a mixture of dwellings, with 'of their time' architecture; the proposed building seeks to continue this historical evolution.
- 7.5 The proposed dwellinghouse is large but its scale is offset by its use of materials to create a two storey dwellinghouse that is nevertheless set into the landscape. The rubble stone wall, to the lower ground level of the frontage, provides accommodation but contributes little to the sense of mass of the building as it also forms a substantial plinth to the main part of the development and allows the building to assimilate into the rising site. The timber and coursed stone faced upper ground floor would therefore take on more of the appearance of a bungalow set on the plinth and would be appropriate in its context to other bungalows along Strathallan Close. The timber elevation utilises a sustainable material. The more robust stonework will be locally sourced and pays respect to the material of other buildings in the area. The metal roof is of its age, as would have been the tiles/slates to the other houses in the local environment.
- 7.6 This is considered to comply with Policies S1, S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1, NP10 and NP11 of the emerging Darley Dale Neighbourhood Plan. As the site is immediately adjacent to the character area of Darley Hillside, which is defined in the emerging Neighbourhood Plan, it is also considered that the proposal is in general compliance with emerging Policies NP2 and NP12 where it is advised that planning permission will be supported for residential development in Darley Hillside where the proposal is of a high design quality that will positively contribute to the character of its setting.
- 7.7 In terms of climate change, the applicant has detailed the provision of solar panels to take benefit from the south facing roofscape. The applicants also propose to improve the land to the south of the access to enhance tree provision and thus take up a part of the buildings carbon footprint. To this end, the building is considered of its time, appropriate in its context, utilises sustainable materials and sits comfortably in the well treed/landscaped environment of the site with a largely south facing aspect.

Impact on Trees and Landscaping

- 7.8 The District Council's Arboriculture and Landscape Officer assessed the applicant's initial proposals and advised that further information was required to allow an informed assessment regarding proposed tree removals and tree protection measures. This has been undertaken by the applicant and the amended report and methodology is considered

acceptable. The land which is proposed to be set aside as a wildlife area will also retain some of the greenspace that the Town Council wish to be retained through the site.

Ecology

- 7.9 Derbyshire Wildlife Trust has advised that the applicants Preliminary Ecology Assessment is acceptable but requests a condition that the development is carried in accordance with its recommendations. In addition, whilst not requested with this application, it is considered reasonable to attach conditions, as required by Derbyshire Wildlife Trust on the previous outline planning permission, with respect to the impact of lighting on the habitat of bats and protecting nesting birds and reptiles.

Impact on Residential Amenity

- 7.10 The proposed dwellinghouse has a long projecting rear elevation close to the boundary with the neighbouring dwelling to the north east (3 Strathallan Close). However, whilst there will be some massing apparent above the dividing hedge, given the orientations of the existing and proposed dwelling, it is not considered that the proposal will significantly harm the light or outlook to the neighbouring property. There is proposed to be a doorway to a bootroom facing towards the neighbouring property but is considered that the use of this space, and its outlook, will not cause significant harm the privacy of the neighbours. Nevertheless, it is considered reasonable to remove permitted development rights for any extensions or alterations to the dwellinghouse in order to preserve that amenity. It is not considered that the development will impact on the amenity of other residents; the increased comings and goings along the access which will have limited impact.

Highway Matters

- 7.11 Access to the site from Strathallan Close is via a narrow route with existing hedges to the north at the eastern end of the Close. To the top of Strathallan Close, the access onto Whitworth Road is now secured with an appropriate visibility splay which is controlled through the permission for a dwelling to the south east of Strathallan (planning permission reference number 13/00128/FUL) which has now been constructed. Whilst visibility would be over third party land, which ordinarily would not be acceptable, in this case the visibility splay is already secured via the permission above. Therefore, whilst the Local Highway Authority refer to concerns in this regard, it is not considered that these concerns are justified in the circumstances.
- 7.12 The Local Highway Authority has requested conditions to be imposed as part of any permission as set out in the outline planning permission. However, the applicant has since submitted further details to address some of those conditions and the comments of the Local Highway Authority on this additional submission will be reported to the Planning Committee Meeting.

Conclusion

- 7.13 Whilst this is a contemporary dwellinghouse, it is considered that its design and use of materials is appropriate in this context. The applicants have sought to retain the more important trees and have detailed an extensive area of the site to be improved and managed as an ecological area where there will also be a further provision of trees. It is considered that, once the site has been developed and the proposed landscaping established, there will be a net gain in biodiversity and ecology on the site and that this will also go some way to meeting the Council's objectives towards addressing climate change. The development would also be constructed of locally sourced stone and timber facing which are considered a sustainable use of materials.
- 7.14 It is considered that the development will not lead to significant harm to the amenities of neighbouring residents and that the proposals meet the requirements for highway safety. It is considered reasonable to remove permitted development rights that could lead to extensions and alterations that may impact on the amenity of the neighbours immediately to

the north of the site. On this basis, and subject to appropriate conditions, it is recommended that planning permission be granted

8. RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. Condition ST02a Time Limit on Full

Reason:

Reason ST02a

2. The development hereby approved shall be carried out in accordance with the original drawings and specifications except as amended by the additional Drawing Nos. F19201/01, SCD01 and 320-03 and the revised Arboricultural Survey Report and Method Statement all received on 19th December 2019 except insofar as otherwise required by other conditions to which this permission is subject.

Reason:

To define the permission for the avoidance of doubt.

3. Prior to the building being faced, details/samples of the external materials, doors and windows, rainwater goods, pipework and the solar panels shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in accordance with the approved materials

Reason:

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

4. The landscaping detailed on Drawing No. SCD 01 (Concept Masterplan) shall be implemented fully in accordance with the approved drawing by the end of the second planting season after the dwellinghouse is first occupied. The area to the south and south west of the access shall remain as detailed on the approved drawing and be managed as such unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure the satisfactory appearance of the development and in the interests of biodiversity enhancement to comply with Policies S1, S3, PD1, PD3, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

5. All retained trees and hedgerows shall be protected from damage by the erection of adequate temporary fencing for the duration of the works (to standard: BS 5837:2012) in accordance with the a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work, including site clearance.

Reason:

To safeguard existing trees and their contribution to biodiversity and to ensure a satisfactory standard of landscaping in the interests of amenity in accordance with Policies S1, S2, PD1, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

6. Prior to the first occupation of the dwellinghouse, details of the materials for all areas of hardstanding shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure the satisfactory appearance of the development to comply with Policies S1, S3, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

7. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. 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 ensure a satisfactory standard of landscaping in the interests of amenity and biodiversity enhancement in accordance with Policies S1, S2, PD1, PD3, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

8. No removal of trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.

Reason:

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

9. Prior to any external lighting being installed on site, a scheme of lighting sympathetic to the needs of bats and other nocturnal wildlife shall be submitted to and approved in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

Reason:

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

10. The development shall be carried out in strict accordance with the mitigation strategy/measures detailed in section 5.3 to 5.9 of the Preliminary Ecological Assessment, with any amendments agreed in writing with the Local Planning Authority.

Reason:

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

11. If any reptiles are found during site clearance then works shall cease on site and the advice of a qualified ecologist shall be sought immediately and a scheme for site clearance and mitigation shall then be agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

Reason:

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

12. Before any foundations to the building are laid, details of the arrangements for foul sewage shall be submitted for approval in writing by the Local Planning Authority.

Reason:

To ensure the provision of adequate drainage facilities to comply with Policies S1 and PD8 of the Adopted Derbyshire Dales Local Plan (2017).

13. Before any operations including site clearance are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of site operative's and visitor's vehicles together with the loading / unloading and manoeuvring of goods vehicles, designed, laid out and constructed all as may be agreed with the Local Planning Authority in advance of construction work commencing and maintained free from impediment throughout the duration of construction works.

Reason:

In the interests of highway safety.

14. 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 dwelling hereby approved and no buildings, extensions, gates, fences or walls (other than those expressly authorised by this permission) shall be carried out within the curtilage of any dwelling 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, its surroundings and the amenity of neighbouring residents to comply with Policies S1, S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

9. 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 applicant's attention is drawn to the standing advice of the Flood Authority with regard to SuDs, ground investigations, hidden watercourses and the long term maintenance of drainage systems.
3. The Local Planning Authority prior to the submission of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to design detail and materials.
4. This decision notice relates to the following documents:
Site Location Plan (1:1250) and Block Plan (1:500) received on 28th October 2019
Drawing Nos. PROP-SITEPROP-ELEV 1, 2, 3, 4 and 5 and UPPER FLOOR AND LOWER FLOOR received on 28th October 2019

Additional Drawing Nos. F19201/01, SCD01 and 320-03 received on 19th December 2019

Additional Information received on 19th December 2019

Planning Statement received on 28th October 2019

Design and Access Statement received on 28th October 2019

Amended Arboricultural Survey Report and Method Statement received on 19th December 2019

Preliminary Ecological Appraisal received on 28th October 2019

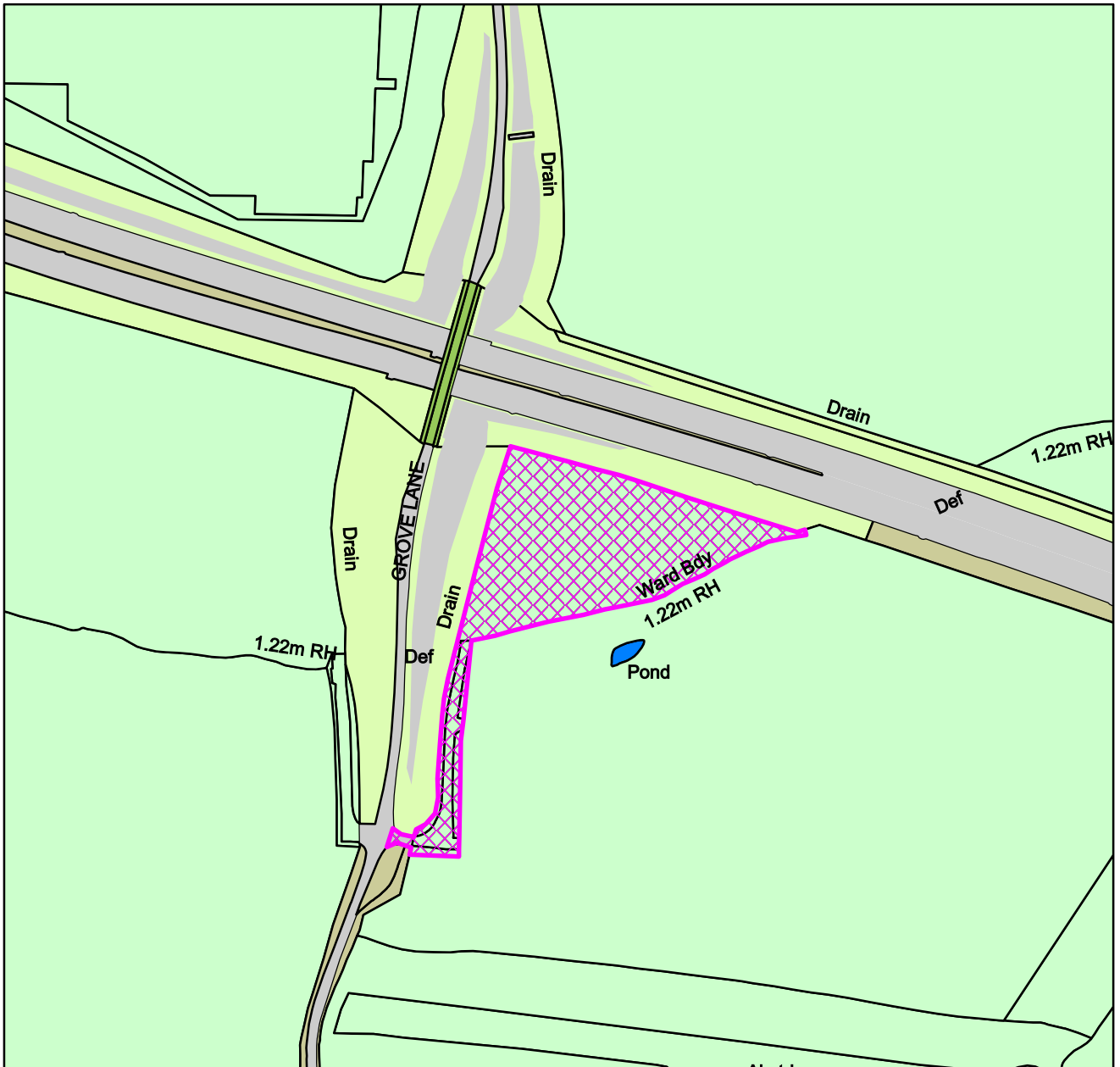
APPLICATION NUMBER		19/01005/FUL	
SITE ADDRESS:		Land East of Grove Lane, Somersal Herbert, Derbyshire	
DESCRIPTION OF DEVELOPMENT		Change of use of land to use for the stationing of caravans for the purposes of human habitation with associated engineering works (4 no. pitches accommodating a total of 5 no. mobile homes, 8 no. touring caravans and 4 no. amenity buildings)	
CASE OFFICER	Mr. Andrew Stock	APPLICANT	Mr John Varey
PARISH/TOWN	Somersal Herbert	AGENT	Philip Brown Associates LTD
WARD MEMBER(S)	Cllr. A. Morley Cllr. J. Allison	DETERMINATION TARGET	5 th December 2019
REASON FOR DETERMINATION BY COMMITTEE	Considered sensitive by the Development Manager	REASON FOR SITE VISIT (IF APPLICABLE)	To appreciate the proposal in the context of its surroundings

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • Is the site appropriate for Gypsy and Travellers pitches having regard to its location, in terms of sustainability; • Would the site help meet the needs for a Gypsy and Travellers site within the Derbyshire Dales District; • Impact on the character and appearance of the local landscape; • Whether the development would result in a significant loss of amenity for residents of neighbouring properties, and the future occupants of the pitches; and • Whether there would be any adverse highway safety implications

RECOMMENDATION
Refusal.

19/01005/FUL

Land East of Grove Lane, Somersal Herbert



Derbyshire Dales DC

1:2,500

Date: 02/01/2020

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 application site is located within the open countryside, east of Doveridge and immediately to the south of the A50. The site is accessed via an existing metal gated entrance directly off Grove Lane. A single lane track leads into the site. The site is bounded by open agricultural land to the east and south, the A50 to the north and Grove Lane to the west. Footpath 11 (Doveridge) intersects the southern boundary of the site.
- 1.2 The site was formerly a green field, however following inspection the site is now established and comprises 1 no. static Caravan, 9 no. touring caravans and 4 no. timber sheds with associated hard landscaping.



2 DETAILS OF THE APPLICATION

- 2.1 Retrospective planning permission is sought for the change of use of land for the provision of 4 no. pitches for the stationing of 5 no. mobile homes, 8 no. touring caravans for the purposes of human habitation. Further development includes the provision of ancillary features such as 4 no. amenity blocks which would be capable of being used by those living in the caravans.
- 2.3 A hard and soft landscaping scheme is proposed including the creation of a 400mm tall bund topped with a timber fence 2m tall to the north of the site and planting of approx. 45 trees, at least some of which appear to be along the top of the bund. No specific details as to the species mix, planting specification, sizes have been provided.
- 2.4 Vehicular access would continue to be gained directly off Grove Lane via the existing metal gated entrance, with parking for up to 4 no. vehicles provided per pitch.

3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1 Adopted Derbyshire Dales Local Plan (2017)

S1	Presumption in Favour of Sustainable Development
S2	Settlement Hierarchy
S4	Development in the Countryside
S9	Rural Parishes Development Strategy
PD1	Design and Place Making
PD3	Biodiversity and the Natural Environment
PD5	Landscape Character
PD7	Climate Change
PD8	Flood Risk Management and Water Quality
HC6	Gypsy and Traveller Provision
HC19	Accessibility and Transport
HC21	Car Parking Standards

4 RELEVANT PLANNING HISTORY

4.1 None applicable.

5 CONSULTATION RESPONSES

5.1 Parish Council

Objection – The concerns shared by Somersal Herbert residents include the following:

- The over sensitive and secretive nature of this development and our local officers lack of consultation and action so far on this proposed development has been noted by all residents.
- The number of pitches and accommodation is completely excessive and out of proportion to the surrounding area. The area does not have adequate infrastructure in place to support the influx of vehicles and families.
- Increased vehicular traffic on a single track road leading to the village (Grove Lane) and its negative impact on road safety.
- Unofficial development of agricultural land, changing its use and the character of the surrounding area.
- The negative visual impact of the proposed development. (The existing trees do not adequately screen the area occupied).
- Its close proximity to a Conservation Area (Somersal Herbert settlement) and a Grade 1 listed ancient monument (Somersal Herbert Hall) will affect overall character of the area.

5.2 Derbyshire County Council (Highways)

Objection - Grove Lane is a single track road subject to the national speed limit (60 mph) and a 7.5t weight restriction. Visibility from the site entrance is reasonable to the north, providing a sightline to the approach to the bridge where the carriageway width reduces. To the south the sightline is restricted due to the horizontal alignment of Grove Lane, the margin width and the adjacent vegetation. If the Local Planning Authority are minded to determine the application as submitted a recommendation of refusal is put forward on the following grounds:

1. *The proposed development, if permitted, would be likely to lead to the significant intensification in use of an existing substandard access to Grove Lane, NC, where*

emerging visibility is restricted in a southerly direction due to the horizontal alignment of Grove Lane, the width of margin and adjacent vegetation, thereby leading to potential danger and inconvenience to other highway users.

2. The provision of an access with adequate visibility splays to the Highway Authority's minimum standards would involve the use of land, which as far as can be ascertained from the application drawings, lies outside the applicants control.

3. The application site is accessed via a roadway which is limited in terms of geometry, street lighting and drainage and is therefore unsuitable to safely cater for the traffic, either vehicular or pedestrian associated with further residential development.

5.3 Environmental Health Team

Objection. A noise assessment close to the site during the late morning on 27th November 2019 and recorded background noise levels of 73.3 LAeq ½ hour. Noise levels are above the guidance and do not meet the current noise criteria for noise sensitive developments based on BS8233. A recommendation of refusal has been put forward by the Councils Environmental Health Team on this basis.

5.4 East Staffordshire Borough Council

No objections.

5.5 Development Control Archaeologist (Derbyshire County Council)

No objections.

5.6 Peak & Northern Footpaths Society

The application should be rejected if walkers are adversely affected.

5.7 Derbyshire Dales Group of the Ramblers

No objections, subject to conditions.

5.8 Trees and Landscapes Officer

No objections, subject to conditions.

5.9 Derbyshire Gypsy Liason Group

Initial response - The Varey family traditionally have resorted to Derbyshire and especially to the south. I know William one of applicants and his wife Sylvana, it is mainly extended family of John Varey. There are care and educational needs for the children on site.

Second response – Although the application may not hit all the criteria set out in the local plan HC6 for Gypsy and Traveller sites we think that mainly because the Watery Lane site is no longer available DDDC can no longer rely on a sound plan as it is misleading where it states '*The District Council will safeguard 0.3ha of land at Watery Lane, Ashbourne as identified on the Local Plan Policies Map for at least 6 Gypsy and Traveller pitches. Provision for a further 3 pitches will be met on unallocated sites in accordance with the provisions of this policy.*' There are no sites at all in the Derbyshire Dales, whereas South Derbyshire has numerous family sites, it is mainly for that reason DGLG supports the application. A windfall site such as this, where the families are providing for themselves is now a bonus.

6 REPRESENTATIONS RECEIVED

6.1 None received.

7 OFFICER APPRAISAL

7.1 The main issues to assess in the consideration of this application are;

- Is the site appropriate for Gypsy and Travellers pitches having regard to its location, in terms of sustainability;
- Would the site help meet the needs for a Gypsy and Travellers site within the Derbyshire Dales District;
- Impact on the character and appearance of the local landscape;
- Whether the development would result in a significant loss of amenity for residents of neighbouring properties, and the future occupants of the pitches;
- Whether there would be any adverse highway safety implications.

Is the site appropriate for Gypsy and Travellers pitches having regard to its location, in terms of sustainability

- 7.2 The application site is located within the defined countryside, and accordingly the principle of development falls to be considered against Policy S4 of the Adopted Derbyshire Dales Local Plan (2017) which lists a number of circumstances where development may be supported.
- 7.3 Policy S4 of the Adopted Derbyshire Dales Local Plan (2017) advises that new development proposal within the open countryside should protect and where possible, enhances the landscape's intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment and the setting of the Peak District National Park whilst also facilitating sustainable rural community needs, tourism and economic development.
- 7.4 Criterion (i) of Policy S4 is applicable to this application as it supports development of Gypsy and Traveller sites in accordance with Policy HC6 of Adopted Derbyshire Dales Local Plan (2017).
- 7.5 Policy HC6 of the Adopted Derbyshire Dales Local Plan (2017) identifies the District Councils obligation to provide for a minimum of 9 Gypsy and Traveller pitches for the period of 2013 – 2033. This was identified through a Gypsy and Traveller Accommodation Assessments (GTAA's) in June 2015 and covered Derbyshire and East Staffordshire jointly.
- 7.6 The Local Plan in 2017 identified a 0.3ha site in Ashbourne (Land at Watery Lane) as a suitable site to meet 6 of the 9 pitches required. However, this site has not gone forward.
- 7.7 Notwithstanding this, Policy HC6 sets out that for all other proposals for Gypsy and Traveller sites not allocated in the Derbyshire Dales Local Plan a criteria based approach to the determination of planning applications for such facilities will be considered. The following considerations will be taken into account in the determination of applications for Gypsy and Traveller sites; no detrimental impact upon amenity of neighbouring uses; safe access arrangements; accessible to suitable schools, shops, healthcare; on site facilities can be provided such as water supply, electricity etc; suitable circulation space within the site for a variety of vehicles including emergency vehicles; site not a risk of flooding; site is well planned and includes landscaping which mitigates the impact of the proposal on the surrounding area; site can provide privacy and space for neighbouring occupants and site has good ground conditions, and land stability issues.
- 7.8 Having regard to the location of the site in terms of its sustainability, the nearest settlement that could provide basic facilities is Doveridge some 1.7 miles west of the application site. Footpath 11 (Doveridge) intersects the southern boundary of the site and there is a bus stop

located at the end of Grove Lane (on Derby Road). However, Grove Lane itself is unlit and has no pedestrian margins with any use of the available public transport would likely be limited to daylight hours and periods of reasonable weather. Derby Road has wider grassed margins but is still unlikely to be a reasonable option for pedestrians.

- 7.9 Given the isolated location of the site away from the nearest settlement residents are likely to depend on their own private motor vehicle to access employment and services within Doveridge given the lack of infrastructure available to make the fullest possible use of public transport and walking routes. In this respects, it is considered that the remote location of the Gypsy and Travellers site within the open countryside away from the nearest settlement (Doveridge) prevents easy access to local amenities and services and would constitute an unsustainable form of development.

Would the site help meet the needs for a Gypsy and Travellers site within the Derbyshire Dales District;

- 7.10 There is a plan target for a minimum of 9 Gypsy and Traveller pitches for the period of 2013 – 2033 as identified by the Gypsy and Traveller Accommodation Assessments (GTAAAs), which covered Derbyshire and East Staffordshire jointly, as set out in Policy HC6 Adopted Derbyshire Dales Local Plan (2017).
- 7.11 The aim of Policy HC6 is to primarily meet the needs of the traveller community with a local connection. Whilst this is not expressly stated within Policy HC6 of the Local Plan, Paragraph 7 of the National Planning Policy for Traveller Sites states Planning Authorities should use a robust evidence base to establish accommodation needs to inform the preparation of local plan and making planning decisions.
- 7.12 The application is lacking in detail about the applicant, and the applicants associated families who currently reside on site as well as their connections to Derbyshire Dales. Following consultation with the Derbyshire Gypsy Liason Group it is understood that the Varey family have traditionally resorted to Derbyshire. Whilst the connection with Derbyshire Dales has not been established as plan policy does not specifically require a local connection, objection on this basis would not be justified.

Impact on the character and appearance of local landscape

- 7.13 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) relates to design and place making which requires development proposals to achieve a satisfactory relationship with 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.
- 7.14 Policy PD5 of the Adopted Derbyshire Dales Local Plan (2017) seeks to resist development, which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement.
- 7.15 The application site is situated immediately south of the A50 bounded by open agricultural land to the east and south, the A50 to the north and Grove Lane to the west. The site is surrounded by third party semi-mature trees outside the northern and the western boundaries. Scattered individual mature trees and a group of mature trees are located close to the southern boundary. Footpath 11 (Doveridge) intersects the southern boundary of the site.
- 7.16 The site was formerly a green field, however following inspection the site is now established and comprises 1 no. static Caravan, 9 no. touring caravans and 4 no. timber shed with associated hard landscaping. As part of the application it is proposed to implement a soft

landscaping plan which includes the creation of a 400mm tall bund topped with a timber fence 2m tall to the north of the site and planting of approx. 45 trees, at least some of which appear to be along the top of the bund.

7.17 Whilst it is acknowledged that the site is well contained from wider landscape views and has very limited visibility from either roadside (Grove Lane and the A50), largely due to roadside trees between the site and the roads, the site is highly visible from Footpath 11 (Doveridge) which runs through the field adjacent to the site, and from a small number of residential properties to the south of the site.

7.18 It is considered that the proposed change of use of the former green field for the provision of 4 no. pitches comprising 5 no. mobile homes, 8 no. touring caravans, 4 no. amenity blocks and associated hard landscaping has resulted in an intrusive form of development within the open countryside well away from the nearest settlement that harms the openness of the site resulting in a detrimental impact to the character of this part of the countryside.

Whether the development would result in a significant loss of amenity for residents of neighbouring properties and the future occupants of the pitches

7.19 The application site is located within a remote location within the countryside away from residential properties. The closest neighbouring residential property is Palmer Moor Farm which lies approximately 260 metres south of the site.

7.20 It is considered that there is sufficient distance between application site and neighbouring residential dwellings to not result in a significant loss of privacy between existing residents and the future occupants of the pitches. Furthermore, internally the proposed layout of the site appears to provide sufficient privacy for the future occupants of the pitches.

7.21 Turning to the potential impact upon the amenity of future occupants of the pitches, the site lies immediately south of the A50 which is the major trunk road between Derby and Stoke-on-Trent. The Councils Environmental Health Team carried out a noise assessment close to the site during the late morning on 27th November 2019 and recorded background noise levels of 73.3 LAeq ½ hour. There are no nationally recognised numerical noise criteria for assessing the suitability of sites for residential development. However, Local Planning Authorities use noise criteria based on BS8233. The BS8233 recommendations for indoor ambient noise levels are given below.

Activity	Location	07:00 to 23:00 hrs	23:00 to 07:00 hrs
Resting	Living room	35 dBLAeq,16hour	-
Dining	Dining room/area	40 dBLAeq,16hour	-
Sleeping (daytime resting)	Bedroom	35 dBLAeq,16hour	30 dBLAeq,8hour

7.22 The Councils Environmental Health Team confirm that as the noise levels are above the guidance and do not meet the current noise criteria for noise sensitive developments based on BS8233. A recommendation of refusal has been put forward by the Councils Environmental Health Team on this basis.

7.23 Whilst the accompanying planning statement indicates that an earth bund topped with a timber fence and the planting of approx. 45 no. trees would be provided, this is not depicted on submitted plans. Based on the proposed layout of the pitches and the situation on the ground with noise emanating from a higher level it is not foreseen that a suitable noise attenuation bund could be achieved in such close proximity to the A50. In absence of any noise assessment and mitigation measures to address the potential noise impacts from the A50 the Local Planning Authority cannot be satisfied that there would be no adverse impacts on the residential amenity of any future occupants of the pitches.

Whether there would be any adverse highway safety implications

- 7.24 Vehicular access would be gained via the existing metal gated access directly off Grove Lane. Grove Lane is a single track road subject to the national speed limit (60 mph) and a 7.5t weight restriction. The Local Highway Authority comments confirm visibility from the site entrance is reasonable to the north, providing a sightline to the approach to the bridge where the carriageway width reduces. However, to the south the sightline is restricted due to the horizontal alignment of Grove Lane, the margin width and the adjacent vegetation.
- 7.25 Grove Lane is generally single track in width with no formal passing places. Farm accesses do provide some informal passing areas however these cannot be relied upon to always be available. The margins along Grove Lane are minimal width but are generally level and may provide the opportunity to locally widen. The Local Highway Authority advise, based on the above, that if the Local Planning Authority are minded to determine the application as submitted a recommendation of refusal is put forward on the following grounds:
- 1. The proposed development, if permitted, would be likely to lead to the significant intensification in use of an existing substandard access to Grove Lane, NC, where emerging visibility is restricted in a southerly direction due to the horizontal alignment of Grove Lane, the width of margin and adjacent vegetation, thereby leading to potential danger and inconvenience to other highway users.*
 - 2. The provision of an access with adequate visibility splays to the Highway Authority's minimum standards would involve the use of land, which as far as can be ascertained from the application drawings, lies outside the applicants control.*
 - 3. The application site is accessed via a roadway which is limited in terms of geometry, street lighting and drainage and is therefore unsuitable to safely cater for the traffic, either vehicular or pedestrian associated with further residential development.*
- 7.26 Given the comments made by the Local Highway Authority the application fails to provide sufficient information to fully demonstrate that safe and satisfactory highway access arrangements could be provided to serve all users of the site without prejudicing the safety of existing highway users on the adjoining highway network, primarily due to not demonstrating the appropriate emerging visibility splay.

Conclusion

- 7.27 There is a demonstrable need for Gypsy and Traveller pitches within the Derbyshire Dales to meet the future requirements of the gypsy and traveller community and the provision of 4 no. pitches will make a significant contribution towards ensuring that the Gypsy and Traveller needs are met in the Derbyshire Dales. However this needs to be balanced with consideration as to whether the development proposed on this site is suitable having regard to its location in terms of sustainability, its impact on the character and appearance of the local landscape, whether the development would result in a significant loss of amenity for residents of neighbouring properties and the future occupants of the pitches and whether there would be any adverse highway safety implications.
- 7.28 It is concluded that the remote location of the Gypsy and Travellers site within the open countryside well away from the nearest settlement (Doveridge) is unsuitable to allow adequate access to local amenities and services by sustainable means and would constitute an unsustainable form of development which has resulted intrusive form of development within the countryside that neither preserves nor enhances the character and appearance of this part of the countryside contrary to Policies S1 and HC6 of the Adopted Derbyshire Dales Local Plan (2017) and the guidance contained in the National Planning Policy Framework (2019) and Planning Policy for Traveller Sites (2015).

7.29 Furthermore, the application fails to provide sufficient information to fully demonstrate that safe and satisfactory highway access arrangements could be provided to serve all users of the site and occupants of the site will experience significant levels of road noise from the A50 to the detriment of their residential amenity contrary to Policies S4, PD1 and HC19 of the Adopted Derbyshire Local Plan (2017).

7.30 Accordingly the application is recommended for refusal.

8 RECOMMENDATION:

Planning Permission to be refused for the following reason(s):

1. The remote location of the Gypsy and Travellers site within the open countryside well away from the nearest settlement (Doveridge) is unsuitable to allow adequate access to local amenities and services by sustainable means and would constitute an unsustainable form of development, contrary to Policies S1 and HC6 of the Adopted Derbyshire Dales Local Plan (2017) and the guidance contained in the National Planning Policy Framework (2019) and Planning Policy for Traveller Sites (2015).
2. The Gypsy and Travellers site comprising 4 no. pitches comprising 5 no. mobile homes, 8 no. touring caravans, 4 no. amenity blocks and associated hard landscaping has resulted in an intrusive form of development within the open countryside that harms the openness of the site resulting in a detrimental impact to the character of this part of the countryside contrary to Policies S4, PD1, PD5 and HC6 of the of the Adopted Derbyshire Dales Local Plan (2017).
3. The application fails to provide sufficient information to fully demonstrate that safe and satisfactory highway access arrangements could be provided to serve all users of the site without prejudicing the safety of existing highway users on the adjoining highway network, primarily due to not demonstrating the appropriate emerging visibility splay. The application therefore conflicts with policies S4 and HC19 of the Adopted Derbyshire Dales Local Plan (2017).
4. In the absence of any assessment to satisfactorily address the potential noise impacts on the future occupants of the pitches and the inability to control noise emanating from the A50 future occupants of the site would be exposed to unacceptable levels of noise which would be detrimental to their residential amenity contrary to Policy PD1 of the Adopted Derbyshire Local Plan (2017).

9 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 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.
2. This decision notice relates to the following documents:
Design & Access Statement prepared by Phillip Brown Associates LTD
Proposed Site Plan 219-29.02
Proposed Day Rooms 219-29.03
Existing Site Plan and Location Plan 219-49.01

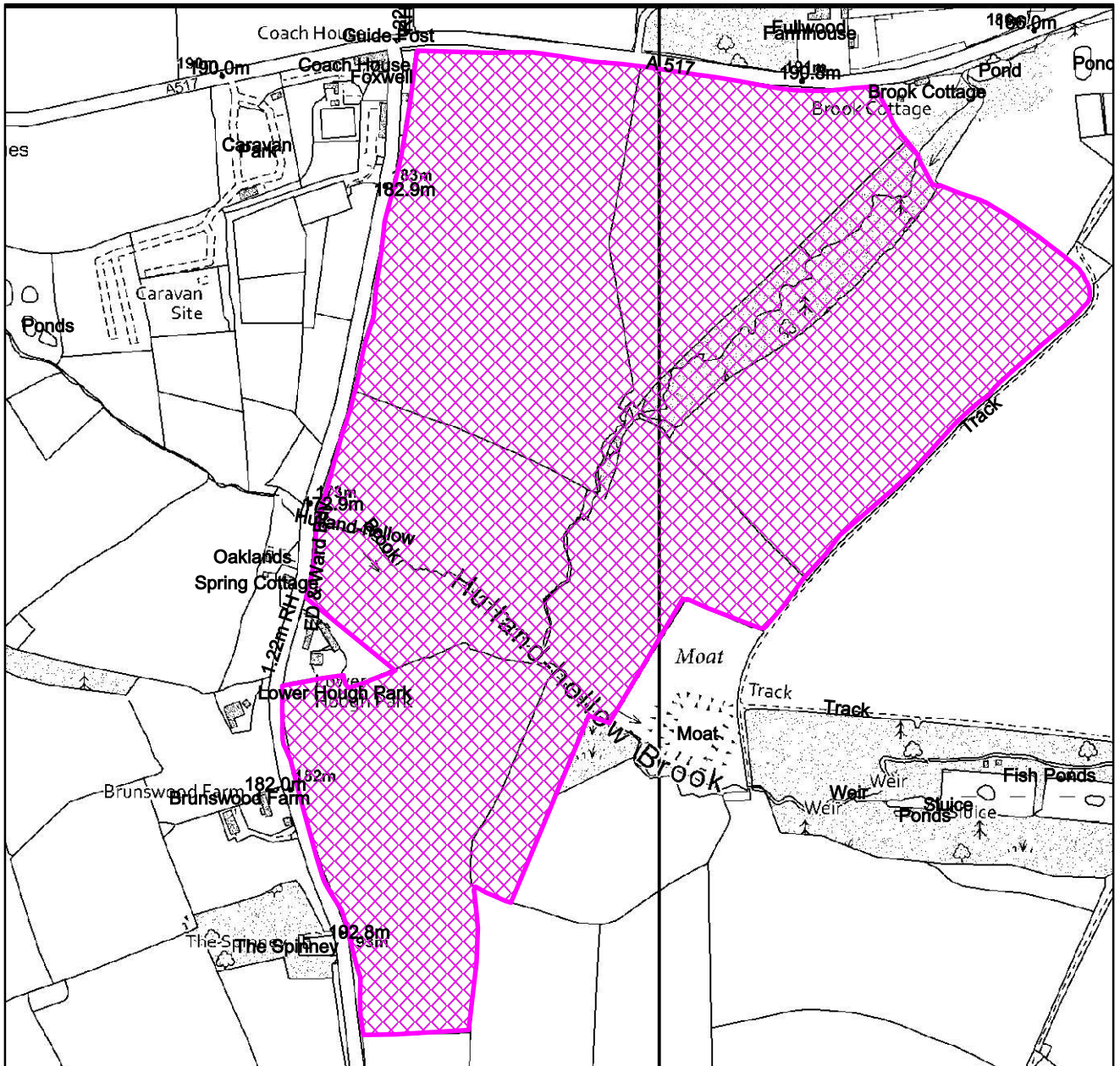
APPLICATION NUMBER		19/00685/FUL	
SITE ADDRESS:		Hough Park Farm, Brunswood Lane, Hulland Ward	
DESCRIPTION OF DEVELOPMENT		Proposed equestrian events course and schooling field with associated alterations to existing access and creation of parking area.	
CASE OFFICER	Sarah Arbon	APPLICANT	Mr Robert Howard
PARISH/TOWN	Hulland	AGENT	
WARD MEMBER(S)	Cllr R Bright	DETERMINATION TARGET	31 st December 2019
REASON FOR DETERMINATION BY COMMITTEE	Major application	REASON FOR SITE VISIT (IF APPLICABLE)	

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> – Principle of development – Impact on the Countryside / Local Landscape – Impact on the designated wildlife site and recorded sites of historic interest – Impact on the amenity of nearby residents – The Appropriateness of the Proposed Vehicular Access – Affect of the development on the Rights of Way which cross the site.

RECOMMENDATION
Approval with Conditions

19/00685/FUL

Hough Park Farm, Brunswood Lane, Hulland Ward



Derbyshire Dales DC

1:5,500

Date: 02/01/2020

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

The site comprises a series of agricultural fields in open countryside to the south west of Hulland Village. It is bounded on its northern side by the A517 and to the west by Brunswood Lane. It is an attractive and varied mix of open fields bounded by hedgerows, tree lined water courses and extended areas of woodland. The site contains Hulland Fish Ponds, a designated wildlife site dating from the medieval period and the remains of a chapel, house and moat. The proposed events course is to be sited to the north west of these designated sites. Public Footpaths 17 and 19 'Hulland' run diagonally across the site from Hulland Village to Brunswood Road and beyond the area proposed for development in the east, southwards from Hulland to Hulland Hollow Brook.

A single access track from the main road through Hulland Village follows the route of Public Footpath no. 17 and provides access to the site from the east. There are a number of other field accesses from Brunswood Lane to the west and the A517 to the north.



2 DETAILS OF THE APPLICATION

- 2.1 The proposal is for a change of use from agriculture to an equestrian events course with associated car park and alterations to current access arrangements.

The course will be laid out within the fields on either side of the northern section of the brook. A reinforced membrane (PERFO-AK Anchor Tiles) will be laid down to form a car park measuring 600m², which will extend along the northern edge of the site immediately to the south of the hedge which runs parallel with the A517. Access will be taken via an existing field gate which will be widened to 6 metres. A number of moveable jumps will be placed along the route of the proposed course. Hedgerows and other landscape features will be unaffected as existing gaps and ways through will be used.

The design of the project is to provide a schooling field for horse and riders to develop and practice their skills in a safe and enclosed environment. The schooling field will be an enclosed area with a range of portable jumps and obstacles for riders to practice over and receive tuition. The jumps range from small, entry level jumps for the absolute novice, young horse or child rider through to more advanced and challenging combinations for more experienced riders. The position of the jumps can be easily moved and changed due to their portable nature. The jumps are of wooden construction. The schooling field would be in the centre of the cross country course. The cross country course would loop through the surrounding fields. The course would utilise existing gaps in the hedges so no hedges or trees would be removed. The course would include different jump combinations to allow riders to practice their approach and technique. The terrain of the farm is perfect for this style of horse riding due to the undulating topography, the small field size and the water

course running through it. This makes the course interesting and challenging for horse and rider. The course would be constructed to British Eventing Safety Standards. Our intent is for the course to be used for individuals or small groups or clubs to train and practice however there may be competitions / events held on the course in the future. This project would provide employment for one person and potentially more in the future.

In order to facilitate the new vehicular access and comply with regulations in relation to visibility a significant stretch (approximately 180m) of hedgerow (and some hedgerow trees) fronting the A517, either side of the access would be removed and replanted to the back of required site lines.

The applicant in a supporting statement for the previously approved application made the following comments in respect of how the facility would operate and how frequently the course would be used which remain pertinent to this proposal:

"The proposed cross country course will be used on a regular basis perhaps 5 times a week by visiting riders that may ride to site or come by vehicle and trailer. As mentioned in our application information the lane adjacent to the parking area, Brunswood Lane, is narrow with a difficult and dangerous turnout onto the A517 with substandard visibility. We want to avoid anyone needing to use the lane with horseboxes or horse lorries as there are a lot of overhanging trees and few passing places on the single track lane. Hence our desire to create a safe and adequate access from the best visibility position on the A517.

We anticipate this daily activity may bring traffic of approx 10 vehicles per day on average. Generally people come to this type of course to practice their riding skills across open fields and over jumps. They will stay for a couple of hours on average, ride the course once or at most twice and then return home. We therefore estimate there would be a max of 10-15 horses a day passing over the course. Horses will not travel together across the course as it is unsafe. During any eventing the horse and rider is timed and never racing one another.

The two places where the course passes over the footpath Hulland 19 are open and do not in our opinion present any health and safety issues. Pedestrians will easily be able to see any horse and rider coming. All riders will be briefed on the course by a member of staff and there will be a course map issued so everyone riding is aware of where the crossover points are. We will sign the course where the footpath crossing is to make riders and footpath users aware of the potential passing of walkers and horses.

Regarding events we hope to stage several small local events on site each year for local pony clubs and horse riding groups. This may involve up to 50 horses at any one time with associated vehicles. There may be some spectators, parents and so forth, with a maximum of 40 cars spectating probably a lot less. This is a guesstimate, this is not a big "Gatcome Horse Trials" or "Chatsworth" type venue. During these events Marshalls will be on site to ensure safe ingress and egress from the site. With the horse carrying vehicles we want to create a proper entrance that vehicles can pass with ease avoiding any need for any traffic queuing on the A517. At such events there would be stewards employed to marshall any traffic onto and off site.

During such events all riders would again be made aware of the footpath crossover points and marshalls would be posted during riding at these crossover points to ensure the safety of both pedestrians using the footpath and of course horses and riders.

We do not believe there is any need to divert the footpath. Our normal agricultural practices will not change with this additional activity. We will be keeping the course in good condition for the safety of riders and footpath uses and we do not anticipate any more wear on the

crossover points than currently occurs with our cattle and sheep. Any damage will be quickly repaired as we do not want poached up ground.

3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1. Adopted Derbyshire Dales Local Plan (2017)
 - S4: Development in the Countryside
 - PD1: Design and Place Making
 - PD5: Landscape Character
 - PD6: Trees, Hedgerows and Woodlands
 - PD7: Climate Change
 - HC17: Promoting Sport, Leisure and Recreation
 - HC19: Accessibility and Transport
 - EC10: Farm Enterprises and Diversification
- 3.2. National Planning Policy Framework
National Planning Practice Guidance

4 RELEVANT PLANNING HISTORY:

12/00581/FUL – Change of use of land to use for equestrian events course and associated car parking and access alterations. Granted 12/12/12

01/12/0864	Siting of Mobile Home (Temporary Period of four years)	Withdrawn
01/12/0849	Erection of egg production unit (Unit No.1) and associated access	Withdrawn
01/12/0850	Erection of egg production unit (Unit No.2) and associated access	Withdrawn

5 CONSULTATION RESPONSES

Parish Meeting

- 5.1 No response received.

Derbyshire County Council (Highways)

- 5.2 The proposed equestrian centre does raise highway concerns, particularly due to the introduction of slow moving vehicles i.e. horse boxes, onto a principal road, the A517, with a speed limit of 50mph.

It is suggested that the equestrian centre will operate 5 days a week for local riders to practise their skills over the course, with vehicle movements spread out throughout the day. It is also proposed that 'several' events will be held on the site throughout the year with approximately 50 horses taking part in these events. These events will generate significantly higher vehicle numbers, particularly slow moving vehicles required to transport horses to and from the site, as well as parents and spectators, potentially resulting in queuing traffic on the A517. There is also the potential for conflict when these events occur, with vehicles exiting the site, particularly slow moving horse boxes, attempting to enter gaps in the traffic.

In order to alleviate the concerns of the Highway Authority and to minimise the potential conflict at the site access, on a principal road carrying fast moving traffic, the applicant is required to enter into a Section 106 Agreement to create an Events Management Plan, which will include obtaining the services of a professional marshalling service to manage the parking arrangements and the entry and exit of vehicles to and from the site access.

Subject to the above, there are no highway objections to the granting of planning permission subject to conditions and the Section 106 Agreement.

Derbyshire County Council (Archaeologist)

- 5.3 This application site lies within a monument which is recorded in the Derbyshire Historic Environment Record. This is Hough Park (DHER no. 8405), a medieval deer park, which is mentioned in archival sources dating from the early 14th century. It was thought to encompass a substantial area of land to the south and west of Hulland village and be bounded to the west by what is now Brunswood Lane. Within this area are two Scheduled Monuments: the foundations of Hulland Old Hall (Monument number: 1010029) which lie within a well defined moat, the site of a chapel and platforms representing the remains of ancillary buildings associated with the moated manor house; and two associated medieval fish ponds which are located some 150m to the south-east.

The Scheduled remains of Hulland Old Hall are immediately to the east of the application area, and for this reason we would recommend that Historic England be notified of this application. There is a requirement for archaeological desk based assessment due to the excavation required for the water jumps. However, if the water jumps were removed this would alleviate their concerns archaeologically. That said, the required archaeological survey may confirm that there are no archaeological features in those areas, and therefore the water features could be constructed with no further input. Also if remains were identified, its possible that we could advised on for example: less damaging methods of construction; a more appropriate location or some other form of mitigation which would allow the works to go ahead.

5.4 Environment Agency

No comment

Derbyshire County Council (Flood Team)

- 5.5 No comment.

Natural England

- 5.6 No comments

Landscape Design Officer (Derbyshire Dales)

- 5.7 A number of trees within the existing hedgerow may be removed to facilitate the visibility splay, however, the applicant has confirmed the mature Oak shall be retained. No details relating to the proposed replacement hedge has been provided, therefore, details of the species mix, plant / planting specifications, maintenance etc. is required by condition and should reflect typical local hedgerows and be specified to support biodiversity.

The proposed Perfo-AK Anchor tiles proposed for use to reinforce the field surface allowing it to be used as a vehicle parking area is preferable to hard surfacing. However, the colour should be agreed as it would be preferable for the product to be a dark green or brown. As suggested in the supplied documents, the jumps for use in the cross country course and in the schooling field should not be painted to ensure they are inconspicuous in the countryside. If painting were considered necessary in future then muted colours would be preferable to brighter colours, assuming this were safe for their intended use. Perhaps this could be the subject of a condition if planning permission were to be granted. No trees subject to Tree Preservation Order and no ancient woodland would be impacted by the current proposals.

The route of the cross country course passes through a belt of woodland and a number of linear field boundary tree features. Whilst these are not currently subject to statutory protection it would be regrettable if tree removals were needed to facilitate course construction. If any trees are required to be removed as part of the course then a Tree Removals and Retentions Plan could ensure that damage could be reduced if the parts

of the route passing within 15m of tree stems (or over the root protection areas - as defined within BS5837:2012 – whichever is the lower value) were to have an appropriate form of ground protection installed and maintained. The specification of the ground protection system can be controlled by condition. However, a possible appropriate solution may take the form of perforated rubber grass protection mat topped with a layer of bark mulch, all applied above existing soil surface level. It would be important to regularly ‘top-up’ the mulch as horses hooves would disturb, redistribute and compress it, reducing its efficacy. It should be maintained at a depth of at least 150mm.

The soil along the route of the course and in the proposed schooling field is of a clay-rich type. I have concerns that the ground may very quickly become churned up, poached and muddy once horses were using it. This may be anticipated to lead to future requirements for some kind of surfacing of the course, perhaps manege construction, etc, which could potentially have a significant impact in the landscape.

Environmental Health (Derbyshire Dales)

5.8 No objection.

Peak and Northern Footpaths

5.9 Object to the application as no consideration has been given to the existence of Public Footpath 19 Hulland which crosses the fields on which the course is proposed. The course appears to cross the footpath in two locations with one jump on the route and three others close to the route. The applicant would need to ensure the surface of the path is not destroyed and the safety of walkers. Amendments are required to ensure the safety and amenity of the public users of the path is not compromised

The Ramblers (Derbyshire Dales)

5.10 Object to the application as the proposed circuit crosses Hulland footpath 19 and has jump 14 on the definitive line and there is a concern for the safety of walkers and the surface.

Historic England

5.11 The application site lies adjacent to and partly within the scheduled monument known as ‘*Hulland Old Hall moat, enclosure, chapel site and four fishponds*’ (List Entry No. 1010029). It lies within the possible extent of a medieval parkland associated with the manorial site.

Currently the majority of the application site is agricultural farmland, with the parcel adjacent / within the scheduled monument being under pasture. The proposals comprise installation of jumps and obstacles to form a cross-country equestrian course. Based upon the information provided, some jumps /obstacles would be movable, others would be fixed in place. A small car park would be created in the north, off the A517. A parcel on the south-eastern side of the application site would be utilised as the ‘Schooling Field’. This would primarily use smaller portable jumps and obstacles; although the tail end of the cross country course (jumps 17, 18 and 19) would also finish in this field.

The ‘Schooling Field’ parcel lies mostly adjacent to the scheduled monument; however a small part on the eastern side does fall into the scheduled area. Currently no works are proposed within the scheduled monument.

We have no objection in principle to the proposed development and change of use. The introduction of equestrian infrastructure would have an impact upon the character and setting of the immediate surroundings of the monument. However, this impact would be curtailed by the non-permanent and movable nature of the schooling field infrastructure, and by locating the cross country course on the western and northern edges of that field and therefore well away from the scheduled area.

Although not included in the application site, the scheduled monument is within the same

ownership and was formerly part of the same parcel as the proposed Schooling Field. It would be beneficial to ensure the monument is retained within a positive form of land management and appropriately maintained (e.g. earthworks protected, scrub and vegetation managed etc.)

Historic England has no objection to the application on heritage grounds. No works are proposed within the scheduled area and the installation of new equestrian jumps and a Schooling Field would have a low impact upon the setting of the scheduled monument, and not result in any harm to its significance. Should any works be proposed within the scheduled area, further consultation would be requested and a Scheduled Monument be required.

Derbyshire Wildlife Trust

- 5.12 The use of interlocking permeable tiles would avoid any significant loss of the existing grassland sward for the parking area and this is welcomed. The construction of the jumps would result in some small losses of the existing grassland habitat, but this is not considered to be significant and the large logs and wooden structures that form the jumps are likely to provide new habitat structure for wildlife such as invertebrates and small mammals. The proposals involve the loss of the existing boundary hedgerow to improve the visibility splay for site access; however, this is offset by an approximately equal length of new hedgerow planting set back slightly into the field.

To avoid any permanent loss of biodiversity value associated with the hedgerow habitat it is advised that the new hedgerow should include at least one tree to offset the loss of the immature specimens on the boundary and that this should be suitably protected to allow it to mature into a standard tree rather than being cut at the height of the hedgerow during annual maintenance. As a minimum the new hedgerow would need to incorporate the same species as the existing to avoid any loss of biodiversity; however, increasing the species diversity provides an opportunity for ecological enhancement in line with planning policy targets for biodiversity net gain. Native species that produce fruit, nuts or berries would be particularly beneficial. On the whole, the proposals are of relatively low impact and with straight-forward mitigation need not result in any net loss of biodiversity. There are also opportunities for some ecological enhancement and if the council is minded to grant consent, we recommend that a condition is attached to secure the relevant tree and hedgerow planting. Additional enhancements such as bird and/or bat boxes would also be welcomed.

6 REPRESENTATIONS RECEIVED

- 6.1 One representation has been received which is from the closest residence to the site. The design of the course appears to have been well considered and at the scale proposed, fits well as a countryside activity, providing some diversity and employment opportunity. On this basis the application is supported.

7 OFFICER APPRAISAL

The following material planning issues are relevant to this application:

- Principle of development
- Impact on landscape character
- Highway safety

Principle of development

- 7.1 Paragraph 83 of the National Planning Policy Framework 'Supporting a Prosperous Rural Economy' states that planning policies should enable the development and diversification of agricultural and other land-based rural businesses. Paragraph 84 states that in areas beyond existing settlements development should be sensitive to its surroundings, does not

have an unacceptable impact on local roads and encourage access by sustainable modes of transport.

- 7.2 Adopted Derbyshire Dales Local Plan Policy S4 states that planning permission will be granted for development where it comprises equestrian development where it does not have an adverse impact upon the character of the area. Policy HC17 promotes sport, leisure and recreation provided that they are intended to meet specific rural needs that cannot be appropriately met at settlements within the settlement hierarchy. Policy EC10 deals specifically with farm diversification and states that development which forms part of a farm diversification scheme will be permitted where the proposal can demonstrate the viability of farming through helping to support, rather than replace or prejudice, farming activities on the rest of the farm. This is on the basis of the proposal would stimulate economic activity with a use compatible with its location, which maintains the relative sustainability of the rural area and would not generate traffic of a type and amount inappropriate for the rural roads affected by the proposal, or require improvements or alterations to these roads which would be detrimental to their character.
- 7.3 The applicant has provided the following to provide the background to the proposal and how it relates to the existing farm. Hough Park Farm has been run as a commercial sheep and beef farm for 15 years. The farm is managed with a strong commitment to the sustainability of the agricultural land, the natural flora and fauna and the historical features. The land and soil are low grade, as such the farm is unsuited to intensive or cropping agriculture, which are increasingly required in today's economic climate. However, the applicant believes the farm must be run extensively to minimise the impact on the local environment. Sensitive on-farm diversification is a major part of the overall sustainability of the farm, particularly with the volatile nature of agricultural commodities and the threat to the European subsidies. As part of this diversification plan, it is proposed to provide an equestrian events course and schooling field which fits in with the overall 'ecosystem' of the farm. It allows the agricultural use of the farm to continue unhindered, whilst providing some income to help sustain the conservation work being done on farm to allow the farm to grow to be independent of government.
- 7.4 The nature of the proposed use is such that it needs to be located in a rural area and equestrian uses within the countryside are considered acceptable. As part of a proposal to diversify the existing agricultural operation at the farm the equestrian events course is considered to be acceptable in principle and it is a material consideration that the proposal has previously been granted without a significant change in planning policy. The site is well connected to the bridleway network and public rights of way and the proposal would not significantly disrupt the use of the fields for livestock due to the natural nature of the course.

Impact on the Countryside / Local Landscape

- 7.5 Policy PD5 of the Local Plans seeks to protect, enhance and restore the landscape character recognising its intrinsic beauty and its contribution to the economic, environmental and social well-being of Plan area. This would be achieved by maintaining the aesthetic and biodiversity qualities of natural features within the landscape, are sympathetic to the distinctive landscape character areas and can be accommodated without unacceptable impact.
- 7.6 The site is considered to be well contained with views across it and through it either screened by the roadside hedgerows or filtered by the network of field boundary hedgerows, woodland and the form of the local topography. The local topography is defined by the valley of Hulland Hollow Brook which meanders through the site diagonally from the north east before turning sharply to the east. Land initially falls away gently from the A517 towards the brook before rising rather more steeply on its southern side. A roadside hedge follows the A517 on its southern side. The hedge largely obscures views of the foreground while allowing some

longer distance views of the higher ground beyond the brook. Brunswood Lane is a narrow rural lane. Its boundary with the site is characterised by a hedge with a great many mature hedgerow trees which, themselves, are features within the local landscape. Views into the northern end of the site are filtered by the trees along a long stretch of the lane, though in areas where the vegetation is denser e.g. close to the junction with the A517, the view is entirely screened.

- 7.7 The course itself would make use of the existing site topography and would be quite low key in terms of its visual impact; however, some of jumps, due to their form and appearance will be alien features in the landscape and the source of some adverse visual impact, particularly for users of the footpath. However, the natural theme of the proposed jumps / obstacles would assimilate them within the surrounding countryside / landscape. The applicant has confirmed that existing trees and hedgerows within the course would be retained and this can be controlled by the conditions recommended by the Arboricultural and Landscape Officer.
- 7.8 The car park area is unlikely in the fullness of time to result in significant adverse impact on landscape character or visual amenity. It may be possible to relocate the existing hedgerow shrubs to filter views of parked cars from the A517, however this planting may not take immediately and significant new planting may be required. In the short term it is likely that the car park and associated cars would be readily visible, and would result in some adverse visual impact for users of the road and, possibly, residents to the north. This impact would, however, be short term until any new planting has had the time to establish itself. A method statement for the relocation of the existing hedgerow and/or a scheme of new hedgerow and hedgerow tree planting shall be dealt with by condition, to ensure a satisfactory standard of landscaping.

Impact on the designated wildlife site and recorded sites of historic interest

- 7.9 Local Plan Policy PD2 seeks to conserve heritage assets in a manner appropriate to their significance with Policy PD3 seeking to protect, manage and enhance the biodiversity of the area. The course is located close to Hulland Fish Ponds; identified in the Adopted Derbyshire Dales Local Plan 2015 as 'Local Wildlife Site'. The route of the proposed course will be sited some distance away from this important wildlife site, such that it would not be adversely affected by the proposed development. The majority of visitors to the site would be accommodated to the north of the site, approximately 0.5km away. The remains of the chapel, house and moat to the west of Hulland Fishing Ponds which are Scheduled Monuments would not be adversely affected by the proposed use of the land based on the proposed location of the course. Any changes to the route of course would, however, need to be considered and agreed in writing by the Local Planning Authority beforehand to ensure no harm is caused to these important features. In light of the amended plans that remove the water jumps there is no requirement to provide an archaeological desked based assessment as no excavation is associated with the proposal. The proposal therefore accords with Policies PD2 and PD3.

Impact on the amenity of nearby residents

- 7.10 Local Plan Policy PD1 requires development to have a satisfactory relationship with adjacent uses and does not cause unacceptable impacts such as loss of amenity and noise. The use of the land as an equestrian events course does not need any special licensing. Its impact on the local environment, including the amenity of any nearby resident's needs, however, to be carefully considered. Whilst the applicant does not anticipate a large number of big events / competitions, there is likely to be a significant number of visitors to the site (50 horses competing and 40 spectators). The use of the access to the east of the site, which follows the route of Public Footpath no.19 is likely to result in some disturbance to residents of Hulland Village and inconvenience to users of the footpath. It is recommended that the

use of this access by users of and visitors to the course is restricted to minimise any disturbance and inconvenience to residents / users of the footpath. Whilst no details of any public address system accompanies this application, details of any proposed equipment including its type and location would need to be agreed in writing by the Local Planning Authority to ensure that the amenities of nearby residents are protected. The proposal therefore accords with Policy PD1.

The Appropriateness of the Proposed Vehicular Access

- 7.11 Local Plan Policy HC19 requires development to be accessed safely with sufficient parking provision. It is proposed to widen an existing field access, so that large horseboxes / vehicles can be accommodated. To ensure appropriate visibility onto what is a fast part of the A517, the existing hedgerow would need to be removed and set back, which would have some landscape visual impact. Subject to conditions the Local Highway Authority do not object to the proposed access, car parking area and use of the land based on likely numbers of visitors to the site. On a typical day a small number of visitors (mainly local riders) are anticipated with movements spread out throughout the day. The Local Highway Authority have requested that the applicant enter into a Section 106 agreement to secure an events management plan, which will include obtaining the services of a professional marshalling service to manage the parking arrangements and the entry and exit of vehicles to and from the site access. A suitably worded condition would, however, given the Local Planning Authority the flexibility to agree a scheme with the applicant and to ensure that 'small scale' events are carefully managed in the interests of highway safety, without being disproportionate / too onerous. The proposal thus accords with Policy HC19.

Affect of the development on the Rights of Way which cross the site.

- 7.12 Policy HC19 promotes the maintenance of routes and development should support the use of local pathway networks. The course has been laid out so that it crosses Public Footpath no. 19 'Hulland' in two relatively open locations. The applicant also intends to erect signage along the footpath to pre-warn walkers of the dangers of horseriders and would station marshalls at both crossover points during competitions / larger events. The applicant could ride horses on the land for their own personal use without any planning permission. The land is also actively farmed by the applicant and accessed by farm vehicles and machinery which routinely cross over the public footpath. Subject to appropriate management of the course, there is no reason why the land cannot be used and enjoyed by walkers and horseriders. Whilst there is likely to be some inconvenience to walkers when the course is in use, any delays are likely to be short and infrequent such that the enjoyment of the route would not be so adversely affected by the development that application could be refused on this ground alone, it is considered. The method for keeping the footpath open at all times and marshalling of the route will need to, however, be agreed in writing with the Local Highway Authority prior to the site being brought into use.

Conclusion

- 7.13 In conclusion, the proposed diversification of the existing agricultural operation to equestrian usage is considered to comply with the general thrust of local plan policy and the National Planning Policy Framework. Whilst the location of the car park and initial loss of roadside vegetation would have some adverse impact on landscape character and appearance, it is considered that the use of the land for an equestrian events course would not have an unduly harmful impact on this part of the countryside and the local landscape. Subject to careful management of the site access and public footpaths any adverse impact on the local environment, users of the footpaths and highway is also likely to be minimal. A recommendation of approval is put forward on this basis.

8 RECOMMENDATION

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. This permission relates to the following plans:-

XC course 1:2500 Scale Plan received on the 20th December 2019

Site Plan 1:500 Scale received on the 3rd July 2019

90 cm XC Course specification for the jumps (excluding jumps 12 and 16) received on the 3rd July 2019

PERFO-AK Anchor Tile Specification received on the 3rd July 2019

Photographs of the jumps received on the 3rd July 2019

Reason:

For the avoidance of doubt.

3. Before any other operations are commenced, a new vehicular access shall be formed to the A517, located, designed, laid out, constructed and provided with 2.4m x 150m visibility splays in both directions, in accordance with the 1:500 Block Plan. The area in advance of the sightlines shall be maintained throughout the life of the development clear 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 in accordance with the aims of Policy HC19 of the Adopted Derbyshire Dales Local Plan 2017.

4. The land, the subject of the application, shall not be brought into use until space has been provided within the site for the parking, loading and unloading and manoeuvring of visitors' and staff vehicles, located, designed, laid out and constructed in accordance with a scheme first submitted to and approved in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason:

In the interests of highway safety in accordance with the aims of Policy HC19 of the Adopted Derbyshire Dales Local Plan 2017.

5. There shall be no gates or other barriers within 10m of the nearside highway boundary and any gates shall open inwards only.

Reason:

To prevent any gates opening out onto the highway in the interests of highway safety in accordance with the aims of Policy HC19 of the Adopted Derbyshire Dales Local Plan 2017.

6. In accordance with the requirements of Condition 3, the hedgerow and hedgerow trees in advance of the visibility splays shall be re-planted and/or a new hedgerow of native species and hedgerow trees be planted in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme shall include the method for replanting the

existing hedgerow and location, type and number of any new plants and trees. All hedge and tree planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure a satisfactory standard of landscaping in the interests of preserving the character and appearance of the countryside in accordance with the aims of Policies S4, PD3, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan 2017.

7. No external system of public address, loudspeaker system or amplified sound shall be operated on any part of the site without the prior written approval of the Local Planning Authority.

Reason

In the interests of preserving the amenity of the surrounding area in accordance with the aims of Policies S4 and PD1 of the Adopted Derbyshire Dales Local Plan 2017.

8. The route of the cross country eventing course shall be laid out and the fences / obstacles positioned in accordance with the XC Course 1:2500 Scale Plan and details contained in the 90cm XC Course specification (excluding jumps 12 and 16) unless the Local Planning Authority gives written consent to any variation. The timber fences / obstacles shall be given a natural finish prior to being brought into use, and thereafter maintained in that finish in perpetuity.

Reason:

For the avoidance of doubt and in the interests of protecting the nearby site of Importance for Nature Conservation and Schedule Monuments in accordance with the aims of Policies S4, PD2 and PD3 of the Adopted Derbyshire Dales Local Plan 2017.

9. Prior to the course being brought into use an events management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall include the method of marshalling vehicles to and from the site at the main site access off the A517 during events and competitions and measures for preventing vehicles using the other accesses, including the access from Hulland Village which follows the route of Public Footpath No. 19 'Hulland'. The course shall thereafter be managed in strict accordance with the approved details.

Reason:

To safeguard the public right of way and to ensure that it remains open and accessible in accordance with aims of Policy HC19 of the Adopted Derbyshire Dales Local Plan 2017.

10. The use hereby permitted does not extend to include the erection of any floodlights without first obtaining the prior written approval of the Local Planning Authority on an application submitted to it.

Reason:

To avoid the unnecessary illumination of the night sky in the interests of residential and visual amenity in accordance with the aims of Policies S4 and PD1 of the Adopted Derbyshire Dales Local Plan 2017.

9 NOTES TO APPLICANT:

The Local Planning Authority prior to and during the consideration of the application engaged in a positive and proactive dialogue with the applicant which resulted in the

submission of a scheme that overcame initial concerns relating to Biodiversity and Archaeology.

The site is crossed by Public Footpath no. 19 'Hulland'. The routes must remain open, unobstructed and on their legal alignment at all times. There should be no disturbance to the surface of the paths without prior authorisation the Rights of Way Section for the area. Consideration should be given to members of the public using the paths at all times. A temporary closure of the footpaths may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to a public footpath, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. 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 £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

This decision notice relates to the following plans and documents:

XC course 1:2500 Scale Plan received on the 20th December 2019

Site Plan 1:500 Scale received on the 3rd July 2019

90 cm XC Course specification for the jumps (excluding jumps 12 and 16) received on the 3rd July 2019

PERFO-AK Anchor Tile Specification received on the 3rd July 2019

Photographs of the jumps received on the 3rd July 2019

The Local Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

APPLICATION NUMBER		19/01279/FUL	
SITE ADDRESS:		Brackendale, Ashbourne Road, Brassington	
DESCRIPTION OF DEVELOPMENT		Retention of part single-storey, part two-storey building as converted for use as a dwellinghouse, including retention of flue serving wood-burning stove (resubmission)	
CASE OFFICER	Mr Chris Whitmore	APPLICANT	Mr N. Spiteri
PARISH/TOWN	Brassington	AGENT	Mr D Cooney, Planning and Design Practice Ltd
WARD MEMBER(S)	Cllr Lewis Rose	DETERMINATION TARGET	10 th January 2020
REASON FOR DETERMINATION BY COMMITTEE	Considered sensitive by the Development Manager.	REASON FOR SITE VISIT (IF APPLICABLE)	Site visit not required. Members visited the site on the 5 th February 2019 to assess the same development proposal. The submission of new information forms the basis for re-assessment of this application.

MATERIAL PLANNING ISSUES

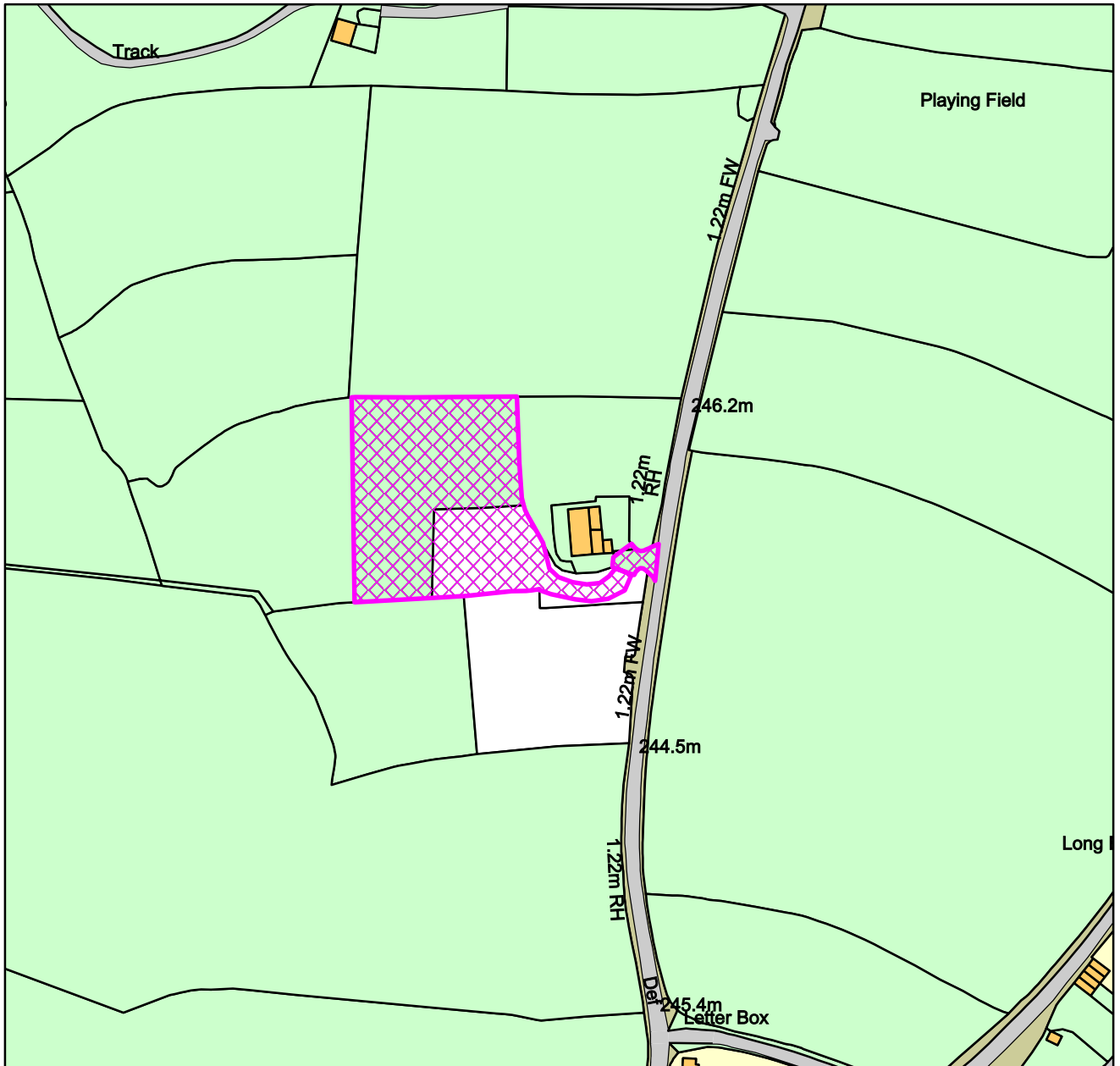
- The previous permission to convert the building to a single dwelling under prior notification legislation and subsequent refusal of application code ref. 18/01423/FUL for retention of the building as converted;
- Whether the original building has been converted without extensive alteration, rebuilding or extension and constitutes an appropriate form of development in the countryside, and;
- The impact of the works on the character and appearance of the building and its surroundings.

RECOMMENDATION

Approval with conditions.

19/01279/FUL

Brackendale, Ashbourne Road, Brassington



Derbyshire Dales DC

1:2,500

Date: 02/01/2020

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 application concerns a stone built barn, which has been the subject of substantial works to be utilised as a dwellinghouse at Wallands Farm, Brassington (see photograph 1). The barn is orientated side on to and sited approximately 50m to the west of Ashbourne Road, which connects Brassington with the B5035, in open countryside. Access to the barn is shared with a steel portal framed building to the east, which has been converted to and is now occupied as a single dwellinghouse (see photograph 2). To the south of the site is a recently constructed replacement dwelling. The site is surrounded by open countryside and visible within the surrounding landscape from Ashbourne Road and public footpath no. 20 'Brassington' (see photograph 3).
- 1.2 The building is mainly two storeys high, with the exception of a single storey outshot which has been re-clad / faced in vertical timber boarding, finished a mid-brown colour and Sarnafil sheets to the roof with standing seam detail, which projects off the north facing elevation of the building at its western end. The original building, which was of two distinct parts included a subservient section which was mainly faced in render. Evidence of fireplaces within this part of the building suggest that it had historically been used as a dwellinghouse (see photograph 4).



(Photograph 1)



(Photograph 2)



(Photograph 3)



(Photograph 4)

2. DETAILS OF THE APPLICATION

- 2.1 This application follows the grant of prior approval, under Part 3, Class Q of the Town and Country Planning (General Permitted Development) England Order (2015) under application code ref. 15/00866/PDA to convert the building, the subject of this application and the conversion of the steel framed building to the east to 2 no. dwellings on 26th January 2016.
- 2.2 During conversion of the building during 2017/18 a number of works were carried out to it, which took the development outside of the scope of what could be construed as permitted

development under Part 3, Class Q of the Town and Country Planning (General Permitted Development) England Order (2015).

- 2.3 An application to retain the building as converted under application code ref. 18/01423/FUL was submitted on the 21st December 2018. This was refused at planning committee on the 5th February 2019 and in a decision notice dated 6th February for the following reason:

The extent to which the original building has been altered, extended and rebuilt is such that the development is tantamount to the construction of a new dwellinghouse on the site. Its resultant prestigious and precise appearance is such that the original contribution of the building to the countryside has been lost to the detriment of its character, identity and context. The development therefore conflicts with policies PD1, S4 and HC8 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within The Conversion of Farm Buildings Design Guidance Supplementary Planning Document (2019) and National Planning Policy Framework (2018).

- 2.4 The current application is accompanied by a legal opinion and appended statement from the stone mason employed by the applicant to repair the exterior stone work, to support the applicant's assertion that the barn was converted not re-constructed. Building control correspondence, building work invoices, a Greenhatch Group survey plan and a construction warranty are also appended to the legal opinion.
- 2.5 In addition to the extent of works to the exterior walls, this application seeks retrospective permission to retain the building as converted and includes the following works which differ to those previously allowed under permitted development legislation:
- The raising of the eaves height at the western end of the building.
 - Wholesale replacement of the roof.
 - The introduction of a first floor for use as residential accommodation.
 - Glazed opening casements to first floor windows rather than the solid vertical boarded panels as approved.
 - Alterations to window and door openings and positions.
 - The introduction of a flue pipe to serve a wood burning stove to the single storey outshot.
 - Introduction of projecting eills.
 - Introduction of formal stone corners and projecting kneelers.
 - A larger area of curtilage / garden area.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2017)

S1: Sustainable Development Principles
S4: Development in the Countryside
S9: Rural Parishes Development Strategy
PD1: Design and Place Making
PD3: Biodiversity and the Natural Environment
PD5: Landscape Character
HC8: Conversion and Re-Use of Buildings for Residential Accommodation
HC19: Accessibility and Transport
HC21: Car Parking Standards

3.2 Other:

National Planning Policy Framework (2019) (NPPF)
National Planning Practice Guidance
The Conversion of Farm Buildings Design Guidance Supplementary Planning Document (2019) – Derbyshire Dales District Council

4. RELEVANT PLANNING HISTORY

18/01423/FUL - Retention of part single-storey, part two-storey building as converted for use as a dwellinghouse, including retention of flue serving wood-burning stove – Refused

18/00945/FUL - Proposed extension of residential curtilage and construction of a garage - Refused

15/00866/PDA - Change of use of agricultural buildings to 2 no. dwelling houses (Use Class C3) and associated building operations - Prior Approval Granted.

5. CONSULTATION RESPONSES

5.1 Brassington Parish Council:

No comments received in respect of this application, however, made the following comments in respect of application code ref. 18/01423/FUL:-

It is, in the view of Brassington Parish Council relevant to note that the applicant had scaffolding erected all around and over the building. He then had it covered in opaque polythene sheeting. This resulted in nobody being able to see what was going on during the work that was being carried out. Not until the covers were removed did the well documented excesses come to light.

To grant this application would, in the opinion of BPC:-

- Reward Mr Spiteri for breaching the applicable regulations;
- Encourage Mr Spiteri as a developer to repeat such behaviour on other developments in the future;
- Encourage others to build other than in compliance with what is allowed, on the basis that DDDC will do nothing about it.

It is the hope of Brassington Parish Council that this application is refused and that such refusal will send the correct message to developers that such breaches will not be tolerated.

5.2 Carsington and Hopton Parish Council:

In objecting to the development, Carsington and Hopton Parish Council make the following comments:

The history of applications in relation to this Barn is noted and in particular the contentious issue as to whether it was the subject of a renovation or a rebuild. The PC can offer no evidence in support of either view. However, it would appear that the applicant does accept that works have been carried out on this barn which are outside the scope of the class Q conversion and therefore need regularising with planning permission. Regrettably the PC recall that this is not the first time that the Applicant has found himself in this position in relation to buildings on this site. The PC is therefore concerned by what appears yet again to be a flagrant disregard for the planning system and therefore objects to the application.

5.3 Local Highway Authority:

Point the Local Planning Authority to their previous response in respect of application code ref. 18/01423/FUL i.e. that they raise no highway safety objections in principle to the building operations proposed.

6. REPRESENTATIONS

6.1 Representations from twelve individuals (some with no address details), including two from the adjoining barn conversion dwelling, two local residents and the tenants of the application property have been received in support of the application. Their comments can be summarised as follows:

- The barn looks fantastic from the roadway and I am impressed with the professional landscaping, which helps local wildlife.
- We need to be converting more existing farm buildings in this way to provide up to date housing in the community and keep the heritage of our villages alive.
- The conversion has brought the site back into life and into positive use, where a lovely young family now live, which can only be a benefit to the local area now and for years to come.
- The conversion works have been undertaken with the utmost care and achieve a high quality dwelling which enhances the appearance and character of the landscape.
- The attention to detail and workmanship is well beyond what a typical builder would undertake and has brought the original building back to life and its former glory. It adds the most character to our setting with the group of homes here.
- The installation of the chimney is fully acceptable in my opinion and is identical to the flue in my barn next door (which is far more visible from the road).
- The landscaping of the site with new trees, hedgerows and re building of drystone wall boundaries contributes to protecting our heritage and enhancing our natural environment and wildlife and it all really adds to the beauty of the approach to the village and maintains what Derbyshire's all about and our culture.
- I worked on this barn conversion from start to finish. It has been painstakingly and carefully converted to produce a beautiful home that the area should be proud of. I cannot understand why anyone would not approve such a high standard of workmanship by local, skilled workers and craftsmen. It has made a neglected building into a comfortable and quality family home.
- I drive past this property daily and it is nice to see an old, original farm building converted into a beautiful family home. It has obviously been converted with great care and attention as original features have been kept and restored and along with new trees etc. planted, the whole area has been tremendously improved. Too many properties are being left in disrepair.
- Looking at the planning application summary the property was awarded planning permission back in 2015 for the 'change of use of agricultural buildings to 2 no. dwellinghouses and associated building operations'. This barn has been brought back to life and has therefore been transformed from a derelict rat infested barn, which was degrading year on year due to the harsh weather conditions we know and love in Brassington, to a beautiful family home.
- This conversion has been an effective re-use of an agricultural building for much needed residential accommodation in our district and has tidied up an area of the village which was an eyesore, with derelict barns, waste grounds and an uninhabitable house.
- The conversion works undertaken to the old barn have been done sympathetically but with an excellent modern twist. The high quality dwelling is an asset to the community.
- Too many farm building are left to ruin and decay leaving an eyesore on the landscape. We need to be converting more existing farm buildings in this way to provide valuable housing for the area, tidy up the countryside and keep the character and heritage of our villages. This conversion is a prime example as to how to convert a farm building to achieve these elements. I wholeheartedly give my full support to this planning application.
- I think that this conversion has been undertaken with great care to achieve a quality dwelling and with consideration to its surroundings and heritage. It is a credit to the

builder to have produced such a quality conversion that maintains, enhances and conserves the areas distinct characteristics.

- I am a neighbour to this barn conversion and I have seen it being converted into a family home. It is nice to have the original barn turned into a family home and lived in.
- We need to embrace the fact that this Developer obviously has high standards and has undertaken the conversion works to produce an outstanding example of a quality barn conversion that the local area can be proud of. I therefore have absolutely no objection to this planning application and wish the applicant every success. All the stone and restoration work has been done by local specialist tradesmen, the majority of whom I know live in Brassington. We are extremely proud of this especially as I look over the property every day when I open my curtains in a morning. We have lived in Brackendale Barn for nearly 9 months. Our family love living here and have made this our home. It is a beautiful conversion which we are enjoying being tenants of. We can't see a reason why the relevant planning permission should not be approved. The history of the property being an original 1800's 2 storey farmhouse is shown within the conversion which has been undertaken with great care to achieve this. The village and local area have commented to us how the property has added to the local area and made a positive contribution to the appearance and the surroundings. Regarding the issue of the flue, this doesn't have any impact on the surrounding of the house or any of the neighbouring properties. It looks the same as the flue installed on the property next door. Much care and local, skilled craftsmanship have been put into the conversion of this barn and the village seem proud of the use of local skill. We live here happily as a family and strongly support this application and reject the opposition and objections towards it.
- I am extremely disappointed that this building is still in question, as since I have lived in my barn every newsletter I have received from Derbyshire Dales mentions cuts and an increasing shortage of funding and monies. We are to be expecting a degradation in our bin service and other set (sic) backs. The Council has wasted far too much time and money on this beautiful part 2 storey part single storey barn, that was already granted planning permission for back in 2015. I must say that this is all because an invalid enforcement notice was issued on the barn in question without a single site visit or any notice or evidence, without thinking about the significant detrimental impacts that this could have on our local businesses, families and skilled tradesmen whom are mostly from Brassington and the surrounding areas. It must be noted that this notice has then been withdrawn due to insufficient evidence. I for one do not appreciate having my door knocked on by a stranger (sic) after hours (sic) by a planning officer who clearly hadn't done his job, this was done in an attempt to gather evidence after the enforcement notice had been sent. Ultimately we could be spending our time and money on far more worthy causes and helping local businesses, promoting our specialist skills and tradesmen, maybe even auditing our planning department so such wastes of money do not occur again.

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:

- The previous permission to convert the building to a single dwelling under prior notification legislation and subsequent refusal of application code ref. 18/01423/FUL for retention of the building as converted;
- Whether the original building has been converted without extensive alteration, rebuilding or extension and constitutes an appropriate form of development in the countryside, and;
- The impact of the works on the character and appearance of the building and its surroundings.

The Local Highway Authority have re-confirmed that they do not object to the application on highway safety grounds. This application seeks retrospective permission for the works to the building and for its use as dwellinghouse. As such, there are no additional impacts on protected species beyond those associated with the conversion works. The applicant would have been required by law to not disturb nesting birds or roosting bats under the terms of the Wildlife and Countryside Act whilst construction works were being carried out.

- 7.2 A number of representations in support of the application have been received, some of which can be afforded no weight as no exceptional circumstances have been disclosed to Local Planning Authority as to why the addresses of the individuals concerned have not been provided. The final bullet point in the representations section include the views of the occupant of the adjoining barn which also required a separate grant of planning permission to regularise unauthorised works that were undertaken contrary to the works permitted under application code ref. 15/00866/PDA. They have not been party to any discussions about the enforcement action taken in respect of the application site, nor do they have any understanding of the costs associated with such action to date. The chronology of events set out below sets out the approach of the Local Planning Authority in trying to resolve this breach of planning control to maintain public faith in the planning system in the most efficient manner possible, without exposing the District Council or applicant to unnecessary costs.

The previous permission to convert the building to a single dwelling under prior notification legislation and refusal of full planning permission

- 7.3 As set out in the application and relevant history sections of this report, prior notification was previously given and approved to convert the building that stood on the site to a dwelling under application code ref. 15/00866/PDA. Following completion of the works in 2018, it was clear to officers that the development did not accord with the prior notification approval that had been granted. This culminated in the service of an Enforcement Notice dated 2nd October 2018, requiring the permanent removal of a new two storey building from the land and its reinstatement to grassland. The serving of this notice was based on the evidence before the Local Planning Authority at that time.
- 7.4 The applicant lodged an appeal against the serving of the notice and laid out their grounds of appeal in a statement. Contained within this statement the applicant advised that the building had not increased in size or position, that the appointed building control officer who inspected the building during the construction process would testify at public inquiry that the works were associated with conversion and not a new build, that the building operations carried out did not constitute development and that the works to the exterior walls were undertaken by a stonemason who only carried out re-facing work, including the turning and reworking of stone to ensure structural integrity, re-building around windows, sandblasting and re-pointing. Photographs of the conversion works, site inspection notes and insurance document were also presented to the Local Planning Authority at subsequent meetings with officers for consideration. The Enforcement Notice was, without prejudice withdrawn to enable to the applicant opportunity to present the evidence they had to the Local Planning Authority as part of a planning application to seek to demonstrate that the building had been converted and not substantially rebuilt as set out in their grounds of appeal.
- 7.5 This resulted in the submission of a new full application for the retention of part single-storey, part two-storey building as converted for use as a dwellinghouse, including retention of flue serving wood-burning stove under application code ref. 18/01423/FUL. The case put forward by the applicant as part of that application was that the development has been carried out in accordance with the application for prior approval to convert the building granted under application code ref. 15/00866/PDA and that applying the provisions of the development plan, the works that had been undertaken were no greater than those that would normally be associated with any traditional barn conversion. No testimony / statement from the appointed building control officer or stonemasons were provided to demonstrate that the

works did not amount to a fresh build. Based on the photographic evidence of the original and new building and the schedule of works it had identified had been undertaken, the Local Planning Authority refused the application for the reason stated in the introduction section of this report.

- 7.6 Following the decision to refuse application code ref. 18/01423/FUL the Local Planning Authority served a Planning Contravention Notice to seek to fully establish the nature of works that had been carried out, given the applicants assertion that the barn had been converted and the apparent willingness of their witnesses to testify at Public Inquiry. This resulted in the submission of some new information in the form of a plan showing the extent of new walling and subsequent meeting between officers and the applicant. Following this meeting a legal opinion supported by a statement from the applicant's stone mason, Mr Allsop was received and a new application (which included this information) was invited.
- 7.7 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 state that decisions on such applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The development plan for the purposes of legislation cited above is the Adopted Derbyshire Dales Local Plan (2017). Advice contained within The Conversion of Farm Buildings Design Guidance (2019) Supplementary Planning Document adds further detail to the policies contained within the Adopted Derbyshire Dales Local Plan (2017) and is an important material consideration in this case. The main policies contained within the Adopted Derbyshire Dales Local Plan (2017) which relate to the consideration of this application are Policies S4, PD1 and HC8. Policy S4 sets out the special circumstances where new residential development in the countryside would be supported and includes the conversion and re-use of buildings that accord with Local Plan Policy HC8.
- 7.8 Policy HC8 of the Adopted Derbyshire Dales Local Plan (2017) states that outside defined settlement development limits, the conversion and/or re-use of existing buildings to residential use from other uses will be permitted where all of the following criteria are met:
- 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.

Whether the original building has been converted without extensive alteration, rebuilding or extension and constitutes an appropriate form of development in the countryside

- 7.9 It is clear from the information that accompanies this application that substantial works to the walls and roof of the original stone barn and single storey outshot have been carried out. In the case of the outshot, this includes the wholesale replacement of the walls and roof, and in the case of the main stone barn the original roof has been replaced and sections of walling. The stone barn represents the largest component of the original building and the statement submitted by Mr Allsop indicates that great care was taken to prop existing walls and rework the original stone, so as to not result in the replacement of the majority of the original walls. The extent of rebuilding of walls is identified as being limited to around windows and doors the raising of the eaves of the western section and the east facing gable end. This new information in the absence of any compelling evidence to the contrary requires careful consideration. Whilst externally the barn appears quite different to the original building and has been altered well beyond what is permitted under prior approval legislation that does not mean that it cannot be construed to be acceptable conversion under Policy HC8. Whilst the visual changes are significant, as it appears that rebuilding has been

largely localised and not extensive it is considered that the works could be viewed as conversion as opposed to fresh build. The modest component of rebuilding is not so extensive so as to conflict with the aims of Policy HC8 of the Adopted Derbyshire Dales Local Plan and national guidance and to constitute an unwarranted and inherently unsustainable form of development in the countryside.

The impact of the works on the character and appearance of the building and its surroundings

- 7.10 Policy HC8 requires that any works to convert a building do not have a detrimental impact upon its character and appearance and surroundings. These provisions are echoed in Policy PD1 of the Adopted Derbyshire Dales Local Plan. Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dales landscapes.
- 7.11 The recently adopted Supplementary Planning Document – ‘The Conversion of Farm Buildings Design Guidance’ (2019) has the objective and aim of advising and guiding the conversion of farm buildings for re-use whilst retaining their inherent and intrinsic character. Where such a building is a historic farm building this is of particular importance as such buildings are a fundamental characteristic of the Derbyshire Dales rural landscape character. Safeguarding their inherent character, appearance, detailing and idiosyncrasies is deemed a primary objective of the adopted Supplementary Planning Document.
- 7.12 The degree of alterations and extension to the barn have significantly altered its character and appearance. The original barn was a rudimental barn, which incorporated distinctive and characteristic, large, irregular limestone blocks. The reworking of the stone to the exterior walls has created a more regular stone pattern and the introduction of new, decorative stone heads, cills and jambs, projecting kneelers and formal quoins has given the building a more formal / prestigious appearance. The substantial works to the building have had a detrimental impact on the character and appearance of the original building, leading to conflict with the first part of criteria d) of Policy HC8. The utilisation of the majority of the walls of the original building and its setting within the context of a recently constructed replacement dwelling, incorporating similar stonework detailing is such that the development is not considered to have a detrimental impact upon the character and appearance of the wider building group or the sites immediate surroundings. When assessed against the development plan in the round and national planning policy guidance the conflict with the first part of criteria d) of Policy HC8 is considered to be outweighed by the benefits of making efficient and effective use of previously development land, through the utilisation of an otherwise redundant building as a dwellinghouse in the countryside in this case.

Summary

- 7.13 In summary, based on the new information that accompanies this application and without any compelling evidence to the contrary, officers are satisfied that the scheme amounts substantially to a conversion as opposed to a rebuild and the extent of rebuilding and extension is not so substantial so as to conflict with the aims of Policy HC8 of the Adopted Derbyshire Dales Local Plan and national guidance so as to constitute an unwarranted and inherently unsustainable form of development in the countryside. The conflict with the first part of criteria d) of Policy HC8 is not considered to outweigh the benefits associated with re-using and converting an otherwise redundant building in the countryside. It is recommended that this retrospective application be approved for these reasons, with a condition (in accordance with the requirements of Policy HC8) to remove permitted development rights to safeguard its, as converted, appearance and the character and appearance of this part of the countryside.

8. OFFICER RECOMMENDATION

That planning permission be granted subject to the following condition:

1. 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 dwelling hereby approved and no buildings, extensions, gates, fences or walls (other than those expressly authorised by this permission) shall be carried out within the curtilage of the dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason:

To safeguard the character and appearance of the building and this part of the countryside in accordance with the aims of Policies SF4 and HC8 of the Adopted Derbyshire Dales Local Plan (2017) guidance contained within The Conversion of Farm Buildings Design Guidance Supplementary Planning Document (2019) and the National Planning Policy Framework (2019).

INFORMATIVES:

The Local Planning Authority considered the application as submitted to be acceptable. On this basis, there was no need to engage with the applicant in a positive and proactive manner to resolve any planning problems and permission was granted without negotiation.

This Decision Notice relates to the following documents:

- 1:1250 Scale Site Location Plan numbered 01007 Revision P2;
- 1:100 Scale Proposed Elevations Plan numbered 2210-54 Rev B;
- 1:100 Scale Proposed Floor Layout Plan numbered 2210-75 Rev C, and;
- Planning, Design and Access Statement by Planning Design dated November 2019, and;
- Legal Opinion by Scott Stemp and associated appendices received by the Local Planning Authority on the 15th November 2019.

Active Enforcement Cases

06 January 2020

13:36:25



Ashbourne North

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/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/19/00160	Non compliance with planning obligation attached to planning permission 03/09/0735 - Sale of 'The Chalet' separately to remainder of site	Grove Barn Ashbourne Green Ashbourne Derbyshire DE6 1JD	Pending Consideration

Ashbourne South

ENF/17/00038	Unauthorised works to listed building	Avanti Jewellers 2 - 4 Church Street Ashbourne Derbyshire DE6 1AE	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/18/00222	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/19/00040	Breach of Condition 10 (Construction Management Plan) of planning permission 15/00060/OUT	Land Off Lathkill Drive Ashbourne Derbyshire	Pending Consideration

ENF/19/00114	Provision of traffic regulation order and markings to restrict parking secured via section 106 agreement not yet in place, landscaping/ damaged fencing on site and unauthorised signage (banner sign and advanced sign) for local housing site being displayed. Related planning approval 18/00180/FUL	Unit 6 Blenheim Road Airfield Industrial Estate 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/18/00138	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/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
ENF/19/00095	Has access road been built to correct width and planting on verge (related planning permissions - 16/00567/OUT (outline) and 18/00397/REM and 19/00467/REM (reserved matters))	Land Off Main Road Brailsford Derbyshire	Pending Consideration
ENF/19/00170	Breach of Condition 5 (Tree removals and retentions) of approved planning permission 18/00711/REM	Land At Luke Lane / Mercaston Lane Brailsford 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/18/00013	Building not built in accordance with approved plans	Mulino Lodge Agnes Meadow Lane Kniveton Derbyshire DE6 1JR	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/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/19/00096	Unauthorised change of use of the building known as Shaws Barn, from B8 (Limited storage and distribution) use, to a use including the sale of alcohol.	Shaws Barn Winn Lane Atlow Derbyshire DE6 1NS	Pending Consideration
ENF/19/00148	Unauthorised erection of Car Port.	Henmore Grange Main Street Hopton Derbyshire DE4 4DF	Pending Consideration

Clifton And Bradley

ENF/19/00159	Formation of a new access off a Classified Road	The Flatts Wyaston Road Ashbourne Derbyshire	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/18/00160	The material change of use of the land, edged blue on the attached plan, for the stationing of a shepherds hut for the purposes of human habitation as holiday accommodation with associated hard surfacing and siting of hot tub	Oakstone Farm Old Hackney Lane Hackney Derbyshire DE4 2QJ	Pending Consideration
ENF/19/00102	Continued siting of mobile home (Breach of Condition 1 of Appeal Decision APP/P1045/C/15/3131891)	Woodside Farm Back Lane Darley Moor Matlock Derbyshire DE4 5LP	Pending Consideration

Doveridge And Sudbury

ENF/18/00165	Unauthorised change of use of agricultural building to use as dog kennels and associated building operations	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/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	Notice Issued
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/18/00206	Unauthorised use of site for wood processing and storage	Poplars Farm Belper Road Hulland Ward Derbyshire DE6 3ED	Pending Consideration
ENF/19/00106	Unauthorised engineering works including the creation and extension of a new access, the re-surfacing of an access track and the excavation of new footings around the existing hay barn, on land opposite Hulland Grange, Upper Lane, Hulland Ward.	Hay Barn Upper Lane Hulland Ward Derbyshire	Pending Consideration

Masson

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/17/00022	Erection of two wooden sheds.	The Cottage Puddle Hill Bonsall Derbyshire DE4 2BA	Notice Issued

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/18/00077	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	The painting of the shopfront with a paint colour that is not approved under the Matlock Bath Conservation Area Article 4 Direction	196-198 South Parade Matlock Bath Derbyshire DE4 3NR	Notice Issued
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/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/19/00086	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/19/00098	Demolition of wall	13/14/15/16 Alabaster Lane Cromford Derbyshire DE4 3QJ	Pending Consideration
ENF/19/00139	Breach of Conditions - Use of premises as a hotel without compliance with conditions 2, 4, 6 and 7 of planning permission 17/01012/FUL and conditions 2, 3, 6, 7 and 8 of listed building consent 17/01013/LBALT	Cromford Court Derby Road Matlock Bath Derbyshire DE4 3PY	Pending Consideration

Matlock All Saints

ENF/18/00042	Unauthorised alteration of shop frontage	Turkish Delight 57 Dale Road Matlock Derbyshire DE4 3LT	Notice Issued
ENF/19/00044	Erection of verrandah to top of shed	133 Smedley Street Matlock Derbyshire DE4 3JG	Notice Issued
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
--------------	-----------------------------------	---	---------------

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/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/19/00015	Formation of access onto a classified road (A615)	The Cottage Alfreton Road The Cliff Matlock Derbyshire DE4 5EZ	Notice Issued
ENF/19/00129	Development not lawfully commenced - Failure to discharge pre-commencement conditions of planning permission 13/00067/FUL (Redevelopment of site to provide extended car parking area)	The Old Mill Nottingham Road Tansley Matlock Derbyshire DE4 5FD	Pending Consideration

Norbury

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/17/00156	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/18/00142	Siting of shipping container	Land Off Rodsley Lane Yeaveley Derbyshire	Pending Consideration
ENF/19/00034	Erection of Building	The Orchard Audishaw Lane Boylestone Derbyshire	Notice Issued
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

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/18/00126	Removal of front wall and erection of ply wood replacement	Kenwood Cottage Wash Green Wirksworth Derbyshire DE4 4FD	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/19/00004	Installation of hot tub to front of property	Stowe Cottage 4 New Road Middleton By Wirksworth Derbyshire DE4 4NA	Pending Consideration
ENF/19/00059	Without planning permission the stationing of a caravan on the land for the purposes of human habitation	Land To East Of Kings Lot Wood Longway Bank Whatstandwell Derbyshire	Pending Consideration
ENF/19/00140	Engineering works to garden area	Fountain House 13 Main Street Middleton By Wirksworth Derbyshire DE4 4LQ	Pending Consideration

Total Open Cases

74

Enforcement Investigations Closed

In the Month Prior to 06/01/2020



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 complied with	16/12/2019
ENF/15/00014	Unauthorised alterations to listed building. Installation of photo voltaic panels on roof slope - Sturston Hall Farm, Ashbourne, DE6 1LN	Sturston Hall Farm Mill Lane Sturston Derbyshire DE6 1LN	Notice complied with	16/12/2019
ENF/18/00137	Erection of salon building in rear garden	91 Park Avenue Ashbourne Derbyshire DE6 1GB	Complaint Unfounded	17/12/2019

Ashbourne South

ENF/19/00046	Breach of Condition 4 (working hours) of planning permission 17/00250/REM	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Not in the Public interest to pursue	19/12/2019
--------------	---	---	--------------------------------------	------------

Brailsford

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	Complaint Unfounded	17/12/2019
ENF/19/00043	Breach of Condition 7 (Working Hours) of planning permission 18/00711/REM	Land At Luke Lane / Mercaston Lane Brailsford Derbyshire	Notice complied with	20/12/2019
ENF/19/00130	Breach of Condition 10 (Construction Management) of Planning Permission 16/00567/OUT - Mud and debris on roads and parking of vehicles on and around the site	Land Off Main Road Brailsford Derbyshire	Complied Voluntarily	11/12/2019

Carsington Water

ENF/18/00202	Breach of Section 106 Obligations - Agreement No. 1093 (Related planning permission 05/00729/FUL)	Bradbourne Mill Bradbourne Derbyshire	Complied Voluntarily	16/12/2019
ENF/18/00203	Erection of retaining wall	Bradbourne Mill Bradbourne Derbyshire	Complied Voluntarily	16/12/2019

Clifton And Bradley

ENF/19/00157	Unauthorised importation of large amounts of Soil.	Darley Moor Motor Cycle Road Racing Club The Darley Moor Sports Centre Darley Moor Ashbourne Derbyshire DE6 2ET	Not in the Public interest to pursue	16/12/2019
--------------	--	---	--------------------------------------	------------

Darley Dale

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	Complaint Unfounded	16/12/2019
--------------	---	--	---------------------	------------

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	Complied Voluntarily	16/12/2019
ENF/18/00111	Breach of Condition 9 (Events Management) of 12/00581/FUL	Land Off A517 North Of Hough Park Farm Brunswood Lane Hulland Ward Derbyshire DE6 3EN	Complaint Unfounded	16/12/2019
ENF/19/00126	Widening/ alterations to access onto a classified road (Intakes Lane)	Halter Devil Farm Intakes Lane Turnditch Derbyshire DE56 2LU	Planning Application Received	19/12/2019

Masson

ENF/18/00210	Erection of terraces to provide seating area	The Tors Cafe Derby Road Cromford Derbyshire DE4 3RP	Complaint Unfounded	17/12/2019
--------------	--	--	---------------------	------------

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	Complied Voluntarily	16/12/2019
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 complied with	20/12/2019

Wirksworth

ENF/19/00005	Unfinished Wall	Land Opposite 86 Greenhill Wirksworth Derbyshire	Complaint Unfounded	17/12/2019
--------------	-----------------	--	---------------------	------------

Total Closed Cases 18

NOT CONFIDENTIAL - For public release

PLANNING COMMITTEE – 14th January 2020

PLANNING APPEAL – PROGRESS REPORT

REFERENCE	SITE/DESCRIPTION	TYPE	DECISION/COMMENT
Southern			
17/00752/FUL	The Manor House, Church Street, Brassington	WR	Appeal being processed
18/00662/LBALT	Brook Cottage, Pethills Lane, Kniveton	WR	Appeal being processed
18/00696/FUL	Norman House, Painters Lane, Brailsford	WR	Appeal being processed
18/00859/FUL	1 Union Street, Ashbourne	WR	Appeal allowed – a copy of the appeal decision is attached
19/00707/FUL	Mulino Lodge, Agnes Meadow Lane, Kniveton	WR	Appeal being processed
19/00554/FUL	Old Barn, Riggs Lane, Marston Montgomery	HOUSE	Appeal being processed
19/00423/FUL	North Farm, North Lane, Brailsford	WR	Appeal being processed
19/00674/FUL	Blackbrook Lodge Caravan and Camp Site, Intakes Lane, Turnditch	WR	Appeal being processed
19/00793/FUL	Land to the rear of Ash Tree Farm, Spend Lane, Ashbourne	WR	Appeal being processed
Central			
19/00148/OUT	Penzer House, Dale Road South, Matlock	WR	Appeal being processed
18/00687/CLPUD	Building at Back Lane, Two Dales, Matlock, DE4 5LP	WR	Appeal being processed
ENF/18/00160	Oakstone Farm Old Hackney Lane Hackney	HEAR	Appeal allowed notice quashed – a copy of the appeal decision is attached

ENF/18/00078	196-198 South Parade, Matlock Bath	WR	Appeal dismissed – a copy of the appeal decision is attached
19/00723/PDA	Grey Spindles Farm, Longload Lane, Middleton	WR	Appeal being processed
19/00722/FUL	Rear of Sunnyside Terrace, Farley Hill, Farley, Matlock	WR	Appeal being processed
19/00188/FUL	16 Cobden Road, Matlock	HH	Appeal allowed – a copy of the appeal decision is attached
ENF/19/00059	Land to the east of Kings Lot Wood, Longway Bank, Whatstandwell	WR	Appeal being processed
19/00507/FUL	150 Cavendish Road, Matlock	HH	Appeal dismissed – a copy of the appeal decision is attached
19/00442/OUT	The Chalet Bungalow, Butts Drive, Matlock	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.



Appeal Decision

Site visit made on 22 July 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Appeal Ref: APP/P1045/W/19/3228235

1 Union Street, Ashbourne, Derbyshire DE6 1FG

- 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 Majid Morabbi against the decision of Derbyshire Dales District Council.
 - The application Ref 18/00859/FUL, dated 3 September 2018, was refused by notice dated 15 March 2019.
 - The development proposed is a change of use to the ground floor 1 Union Street Ashbourne Derbyshire DE6 1FG to an adult gaming centre (Sui-Generis) use.
-

Decision

1. The appeal is allowed and planning permission is granted for the use of ground floor as an adult gaming centre (sui generis use) at 1 Union Street, Ashbourne, Derbyshire DE6 1FG, in accordance with the terms of the application, Ref 18/00859/FUL, dated 3 September 2018 and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Majid Morabbi against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council describe the development as 'Use of ground floor as an adult gaming centre (sui generis use)', this is also implied by the appellant on the appeal form. Neither party have provided any confirmation that a revised description of development was agreed. Nevertheless, I have adopted the Council's description of development in my formal decision as this is a more accurate and succinct description of what is proposed.
4. The proposal initially included a ramped access and the installation of CCTV, however, during the determination of the planning application the appellant confirmed the withdrawal of these elements of the proposal. Therefore, the proposal amounts to a change of use with no external alterations and I have proceeded with the appeal on this basis.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupants of adjacent residential properties, with particular regard to noise and disturbance.

Reasons

6. The appeal site is the ground floor of a two storey contemporary building that has been converted from a former single storey public convenience. It is located within the defined town centre of Ashbourne where a number of commercial activities take place alongside a limited number of residential properties. The proposal seeks a change of use of the ground floor of the building to provide an adult gaming centre consisting of arcade style gaming machines with cash prizes.
7. The Council consider that the proposal would result in unacceptable effects on the residential amenity of neighbouring occupants. In particular, 1 The Channel, to the north of the site, 3 Union Street, adjoining the site to the west and which incorporates a flying freehold over the entrance to the appeal property, and, 1C The Channel, a residential flat above the appeal site. The Council suggest that the proposal would give rise to noise and disturbance to these adjacent occupiers through the general comings and goings of customers to the premises, the potential congregation of people on the street, and the movement of customers when the premises closes. In addition, objectors are concerned about the potential for anti-social behaviour with groups of young people gathering and loitering outside the premises as a result of the proposed use.
8. Despite these concerns, evidence of the likelihood of such disturbance or anti-social behaviour in connection with an adult gaming centre has not been provided. Furthermore, the Council has not supplied any evidence to support its assertion that adult gaming centres result in congregations of people outside such premises or indeed that such uses are particularly noisy or disruptive to neighbouring occupiers. I am therefore not convinced that the Council have adequately demonstrated that the proposed use is incompatible with its adjoining uses and in light of its town centre location.
9. I appreciate that the appeal site is flanked by residential properties but beyond this, and opposite the site, are further commercial uses which reflect its busy town centre location. Union Street is a busy route into the town centre and the site is situated close to the junction with Buxton Road, the main road through the town. Given the central location of the appeal proposal it is not unreasonable for adjacent residents to expect a certain degree of noise and disturbance from traffic and neighbouring commercial uses, including the comings and goings of customers visiting business premises akin to the proposed use.
10. During my site visit I could see that a large public house is located directly opposite the site with its rear entrance and large external seating area facing onto Union Street. In this context, it is my opinion that any noise and disturbance to nearby residents as a result of the proposal is likely to be negligible given this established nearby use which reinforces the busy town centre character of the area.

11. Furthermore, I consider that conditions restricting the opening hours of the premises and prohibiting any amplified music would limit any potential noise and disturbance to adjacent residents.
12. Consequently, these considerations lead me to the view that the proposed development, subject to conditions, would not cause any noise and disturbance of a degree sufficient to result in unacceptable harm to the living conditions of the occupants of adjacent residential properties. For these reasons, I find no conflict with Policies S3 and PD1 of the Adopted Derbyshire Dales Local Plan 2017 which, amongst other things, seeks to ensure that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of noise or other adverse impacts on local character and amenity.

Other Matters

13. The appeal property is located within the Ashbourne Conservation Area, and therefore I am mindful of the duty arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, as the proposed change of use would not result in any physical alterations to the external appearance of the appeal property and it would maintain a commercial use within this busy town centre environment, I conclude that the proposal would preserve the character and appearance of the Conservation Area.
14. In addition, I have been alerted to the fact that the adjoining property at 3 Union Street is a Grade II listed building and it is put to me that the proposal would adversely affect the setting of this designated heritage asset. However, no external alterations are proposed and therefore I am satisfied that the proposal would have no impact on the setting of the adjacent listed building.
15. A number of objectors raise moral concerns in relation to gambling and the potential for gambling addiction and associated social deprivation. Concerns are also expressed that the site is located close to a scout hut, school and a sandwich shop which attracts a high footfall of school pupils with the inference being that young people will be attracted to use the gaming machines to the detriment of their long-term wellbeing. Whilst these concerns may be legitimate, ultimately it is for government to consider appropriate policy responses to such social issues. These are not planning matters for my consideration as national and local planning policies do not proscribe such uses. Rather, the government seeks to regulate such activities by other statutory means predominantly via the licencing regime.
16. My attention has been drawn to parking problems and traffic congestion in the vicinity of the appeal site, however, I have no substantive evidence of this and did not observe such issues during my visit. I also note the lack of any objection from the Highway Authority in this regard.
17. There is a suggestion that the planning application is lacking in information and therefore does not comply with the LPA's validation requirements. However, I am content that a sufficient level of information has been submitted to allow me to consider the appeal and the issues raised.
18. It has been put to me that the site is an edge of centre location and should therefore be subject to a sequential test. The LPA's Planning Policy Team advise that the site falls within the defined town centre of Ashbourne as established on

Inset 5 of the Adopted Derbyshire Dales Proposals Map. Accordingly, I am satisfied that the site is located within the defined town centre and therefore the sequential test does not apply.

19. An objector has suggested that the building has not been developed in accordance with a previous grant of planning permission and that some conditions relating to this previous consent are yet to be satisfactorily discharged. This may or may not be the case, however, these matters are beyond the scope of this section 78 appeal and therefore not for me to consider.
20. Whilst I note comments regarding the potential for a more community-orientated use for the site, this is not a consideration that would weigh materially against the proposed development.
21. A number of objectors have suggested that it is inappropriate for the proposed use to operate in such close proximity to a Funeral Directors, which is located to the south of the site. Whilst I am sympathetic to such concerns this is not a reason for withholding planning permission.
22. Reference is made to the design of the building being out of keeping with the locality, however, the proposal does not include any works to alter its current external appearance and therefore this is not a relevant consideration.
23. Consequently, none of these other matters, either taken individually or together, would alter my conclusions in respect of the main issue in this case, or tip the balance of considerations against the proposal.

Conditions

24. I have had regard to the list of suggested conditions provided by the LPA and have considered these in the context of the Framework which advises that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
25. In the interests of certainty I have attached a condition which specifies the approved plans. To ensure that the development would be sensitive to the living conditions of the occupants of adjacent residential properties, I have imposed conditions to restrict the proposed use's opening hours and to prohibit any amplified music, as accepted by the appellant. For the avoidance of doubt and to ensure a satisfactory external appearance, I have attached conditions to ensure any ramped access is accommodated within the building and for the submission of CCTV details prior to installation. A final condition relating to the details of waste storage has also been imposed to ensure adequate arrangements are made to accommodate such facilities.

Conclusion

26. For the reasons I have set out and subject to conditions, the appeal is allowed.

Jeff Tweddle

INSPECTOR



Costs Decision

Site visit made on 22 July 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Costs application in relation to Appeal Ref: APP/P1045/19/3228235

1 Union Street, Ashbourne, Derbyshire DE6 1FG

- 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 Majid Morabbi for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the refusal of planning permission for a change of use to the ground floor 1 Union Street Ashbourne Derbyshire DE6 1FG to an adult gaming centre (Sui-Generis) use.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, cost may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense.
3. The applicant submits that the Council has acted unreasonably in that, by refusing the appeal proposal, it has gone against the advice of its professional officers without good reason and failed to substantiate its objection to the proposal on grounds of harm to residential amenity with any evidence. Further the Council has failed to provide complete or specific reasons for refusal but instead offers vague and generalised assertions about the effects of the proposal on residential amenity, which are unsupported by objective analysis. It is their contention that the proposal complied with both local and national planning policy and all other material considerations and should therefore have been permitted without the necessity of an appeal which has caused the applicant unnecessary expense.
4. Furthermore, the applicant suggests that the Planning Committee has given undue weight to preconceived negative expectations / connotations of the proposed use rather than making their own objective appraisal.
5. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

6. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
7. The Council advise that members of the Planning Committee undertook a site visit to assess and fully understand the implications of the proposal on the residential amenity of neighbouring properties. However, it appears that members failed to fully appreciate the town centre location of the appeal site and acknowledge the established commercial uses in the locality and existing levels of noise and disturbance at the location of the appeal site, in particular a busy highway and public house directly opposite the appeal proposal.
8. No substantive evidence was put forward by the Council to support their reason for refusal that the proposal would result in 'unacceptable effects' on neighbouring residential amenity due to the 'nature of the proposed use'. I find this phraseology to be unhelpfully vague and unclear and does not provide a robust reason for refusal with clearly identified harm. From the evidence it appears that members did make unsubstantiated assertions over the potential effects of the proposal with no objective analysis or evidence to support their claims.
9. There was no objection from Environmental Health Officers in this regard and the appellant was willing to accept planning conditions to restrict opening hours and prohibit amplified music. It appears that members did not give appropriate consideration of these factors in their determination.
10. The PPG is clear that a refusal of planning permission on a ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead. From my decision it is clear that the imposition of suitable conditions is capable of mitigating any potential adverse effects and thereby indicating that planning permission ought to be granted subject to such conditions.
11. In the planning judgement, it appears to me that, having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission, in the absence of any justifiable evidence and by advancing vague assertions about the proposal's impact, therefore constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG. As a direct result, the appellant has been faced with the unnecessary expense of lodging the appeal.
12. Consequently, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Derbyshire Dales District Council shall pay to Mr Majid Morabbi, the costs of the appeal proceedings described in the heading of this decision.

14. The applicant is now invited to submit to Derbyshire Dales District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Jeff Tweddle

INSPECTOR

Schedule of 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: Site Location Plan and Planning Drawings (Drawing No. A.02), received by the LPA on 27 September 2018.
- 3) The premises shall only be open for customers between the hours of 1000 and 2100 each day. No customers shall be permitted on the premises outside of these hours.
- 4) Prior to installation, details of any external CCTV cameras shall be submitted to and approved in writing by the Local Planning Authority. The equipment shall then be installed in accordance with the approved details and so retained.
- 5) There shall be no amplified music from the premises.
- 6) Notwithstanding the approved plans and for the avoidance of doubt, there shall be no external ramped access to the building. Any difference in levels shall be accommodated within the building.
- 7) 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.

Appeal Decision

Hearing held on 15 October 2019

Site visit made on 15 October 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/P1045/C/18/3216690

Land at Oakstone Farm, Old Hackney Lane, Hackney, Matlock, DE4 2QJ

- 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 Ms Lindsey Adderson against an enforcement notice issued by Derbyshire Dales District Council.
- The enforcement notice was issued on 23 October 2018.
- The breach of planning control as alleged in the notice is the material change of use of the land, edged blue on the attached plan, for the stationing of a shepherd's hut for the purposes of human habitation as holiday accommodation with associated hard surfacing and siting of hot tub.
- The requirements of the notice are: -
 - 5.1 To permanently remove the shepherd's hut from the land.
 - 5.2 To permanently remove the associated hard surfacing and hot tub and restore the land to its former condition as a green field.
- The periods for compliance with the requirements are: -
 - 5.1 28 days
 - 5.2 3 months
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended (the 1990 Act).

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

The Notice

1. I have powers under Section 176(1)(a) of the 1990 Act to correct any defect, error or misdescription in the enforcement notice. The land affected by the enforcement notice and the alleged breach of planning control as shown on the plan attached to the enforcement notice cover areas of land associated with Oakstone Farm. The Council stated at the hearing that these areas were included due to the fact that the shepherd's hut is capable of being moved. However, the alleged breach does not refer to the use of the land edged blue as a mixed use. Both parties disputed at the hearing as to what constitutes the mixed use of that land.
2. Moreover, even though the shepherd's hut could be moved it is highly unlikely that the hard-surfaced area that has been laid, to site it and the hot tub on, would be moved. In addition, measurements were agreed at the site visit so that the Council could submit an amended plan reducing the land affected and the area relating to the breach of planning control to that covered by the hard-surfaced area. Reducing the area of land to which the enforcement notice relates would make it less onerous and so I can make the necessary

corrections to the notice without causing injustice to the appeal parties. I intend to correct the notice by omitting the original attached plan and replace it with the amended plan submitted by the Council. As the area of land relating to both the alleged breach and the land affected would be the same, I shall remove any reference to the land edged blue from the allegation.

3. To ensure clarity I also consider that the alleged breach of the notice should be corrected by adding the words '*Without planning permission*' at the beginning of paragraph 3. I can make the necessary corrections to the notice without causing injustice to the appeal parties.
4. The appellant disputes that the wording of the requirement point 5.2 in that she does not consider that the site was a green field before the breach took place. It is clear that the first part of point 5.2 requires the removal of the hard surfacing and the hot tub from the land. As such, I intend to correct the notice by deleting the wording '*as a green field*'. I can make the necessary corrections to the notice without causing injustice to the appeal parties.

Procedural Matters

5. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the sections relevant to this appeal have not materially altered. Moreover, both parties had the chance to comment on the revised Framework as part of the appeal process.
6. The Council confirmed at the hearing that the site is not within the Peak District National Park and that it is not within a defined settlement development boundary as shown on the Policies Map of the Derbyshire Dales Local Plan (LP). The appellant has cited LP Policy EC10 which relates to farm enterprises and diversification. There is little evidence before me in relation to the viability of farming activities at Oakstone Farm and the appellant stated at the hearing that there has been little farming activity undertaken recently due to personal circumstances. As such, I consider that this policy is not relevant to this appeal on this basis.

The ground (a) appeal and deemed planning application

Main Issue

7. The main issue is whether the site is a suitable location for the development with regard to the character and appearance of the area, the provision of holiday accommodation and the relevant development plan policies.

Reasons

8. LP Policy S1 sets out the Council's overarching principles of sustainable development including meeting most development needs within or adjacent to existing communities and conserving the natural environment. LP Policy S4 advises that the intrinsic character and distinctiveness of the landscape should be protected whilst also facilitating sustainable tourism and economic development. Criterion b) specifically permits development which represents sustainable growth of tourism in sustainable locations where identified needs are not being met by local facilities.

9. LP Policy PD5 seeks to resist development which would be detrimental to the character of the local and wider landscape or the setting of a settlement. LP Policy PD1, amongst other things, requires that new development to be of high quality design that respects the character of the landscape. LP Policy EC8 relates to promoting Peak District tourism and culture and it states, amongst other things, that the Council will support tourism and provision for visitors which is appropriate to the settlements and countryside and consistent with environmental objectives.
10. The alleged breach relates to a shepherd's hut that is used for holiday accommodation, a hot tub and the hard surfaced area that they are sited on. This development is located adjacent to fields/paddocks and a number of buildings that are associated with Oakstone Farm. There is a public right of way (PROW) that adjoins a boundary with the farm and there are dwellings adjacent to and opposite the farm. Based on my observations and the evidence before me I consider that the surrounding area is characterised by the sloping topography associated with river/stream valleys that have settlements, farms and other buildings spread along their sides. Mature landscaping in the form of woodland and hedgerows means that long and medium distance views are filtered and restricted by them.
11. The shepherd's hut is sited at a higher level to and further away from Old Hackney Lane than the other buildings on the farm. However, the mature landscaping along the boundary with the PROW means that it is screened from views when on the PROW. Moreover, the tall stone wall along the farm's road frontage limits short distance views of the development when travelling in a car, or walking on the pavement, on that side of Old Hackney Lane. The hot tub and hardsurfaced area are only apparent when in close proximity to the hut itself.
12. I note that a nearby site is allocated for housing in the LP (HC2 (i)). However, I was told at the hearing that no planning permission for housing has been granted on that site at the present time. As such, the layout of the housing scheme is unknown and the impact that it would have on medium distance views of the shepherd's hut from Old Hackney Lane is also unknown.
13. Nevertheless, whilst the shepherd's hut itself is visible in views from Old Hackney Lane and neighbouring land it is relatively small and is seen in the context of outbuildings and agricultural buildings associated with Oakstone Farm and the adjacent property. I understand that there are very few similar huts in the surrounding area and that the small brick building near to the hut may not have planning permission.
14. However, I do not consider that this small, traditionally-designed shepherd's hut appears incongruous or unduly intrusive in this context. This is due to its general form and materials which are not unlike that of an agricultural building coupled with its subdued colours. Furthermore, this limited visual impact could be further mitigated by the provision of appropriate landscaping in close proximity to the hardsurfaced area. The provision of that landscaping can be controlled by the imposition of a condition.
15. Consequently, I do not consider that the development harms the character and appearance of the area and it conserves the natural environment. Oakstone Farm is adjacent to the existing communities of Matlock and Hackney and there is no dispute that it is within a relatively accessible location given its proximity

to the town centre of Matlock. There is little to indicate that there is a specific identified need for this type of holiday accommodation that is not being met by local facilities. Nonetheless, I heard that there is a demand for holiday accommodation in this area. Moreover, this small tourism enterprise offers an opportunity to support the local rural economy in a manner which is appropriate to the nearby settlements and the countryside, and consistent with environmental objectives.

16. Taking into account all of the above, I consider that the development complies with LP Policies S1, S4, PD1, PD5 and EC8 and therefore the site is suitable for it.

Conditions

17. Both parties were given the chance to discuss the wording of suggested conditions and whether the conditions met the requirements of the Framework and the Planning Practice Guidance (PPG) at the hearing.
18. In the interests of the character and appearance of the area I consider that conditions restricting other mobile units and the number of shepherd's huts to be sited on the land and requiring that a scheme of landscaping is submitted are necessary. The purpose of condition No 3 is to require the appellant to comply with a strict timetable for dealing with the submission of a landscape scheme which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.
19. In order to ensure that the site is used as holiday accommodation, and is not used for permanent residential occupation, I have also imposed a condition restricting the occupation of the shepherd's hut.

Conclusion

20. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Formal Decision

21. It is directed that the enforcement notice be corrected by; -
- The addition of the words "Without planning permission" at the beginning of paragraph 3;
 - The deletion of the words ", edged blue on the attached plan," from paragraph 3;
 - The substitution of the plan annexed to this decision for the plan attached to the enforcement notice;
 - by deleting the wording "as a green field" from the requirement point 5.2.

22. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, for the development already carried out, namely the use for the stationing of a shepherd's hut for the purposes of human habitation as holiday accommodation with associated hard surfacing and siting of hot tub on the land shown edged red on the plan annexed to this decision at Oakstone Farm, Old Hackney Lane, Hackney, Matlock, Derbyshire DE4 2QJ subject to the following conditions:
- 1) No mobile unit other than 1 shepherd's hut shall be stationed on the land at any time.
 - 2) The shepherd's hut on the site shall be occupied for holiday purposes only and shall not be occupied on a permanent basis or as a person's sole or main source of residence. The site owners/operators shall maintain an up to date register of the names of occupiers of the shepherd's hut and of their main home addresses and shall make this information available for inspection on request at all reasonable times to the local planning authority.
 - 3) Unless within 1 month of the date of this decision a scheme for landscaping, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the first planting and seeding seasons following the date of this decision; the use of the site for the stationing of a shepherd's hut for the purposes of human habitation as holiday accommodation shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and any trees or plants which within a period of 5 years from date of this decision die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

D. Boffin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr A.R. Yarwood DipTP MRTPI

Lindsey Jean Adderson

Adrian Adderson

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Arbon – Planning Officer

INTERESTED PERSONS:

Jane Holmes

DOCUMENTS

- A. Photograph of Site Notice, notification letters in relation to the appeal and hearing date and venue and consultation list.

PLANS

- 1. Extract from Policies Map
- 2. Amended Enforcement Notice Plan



Plan

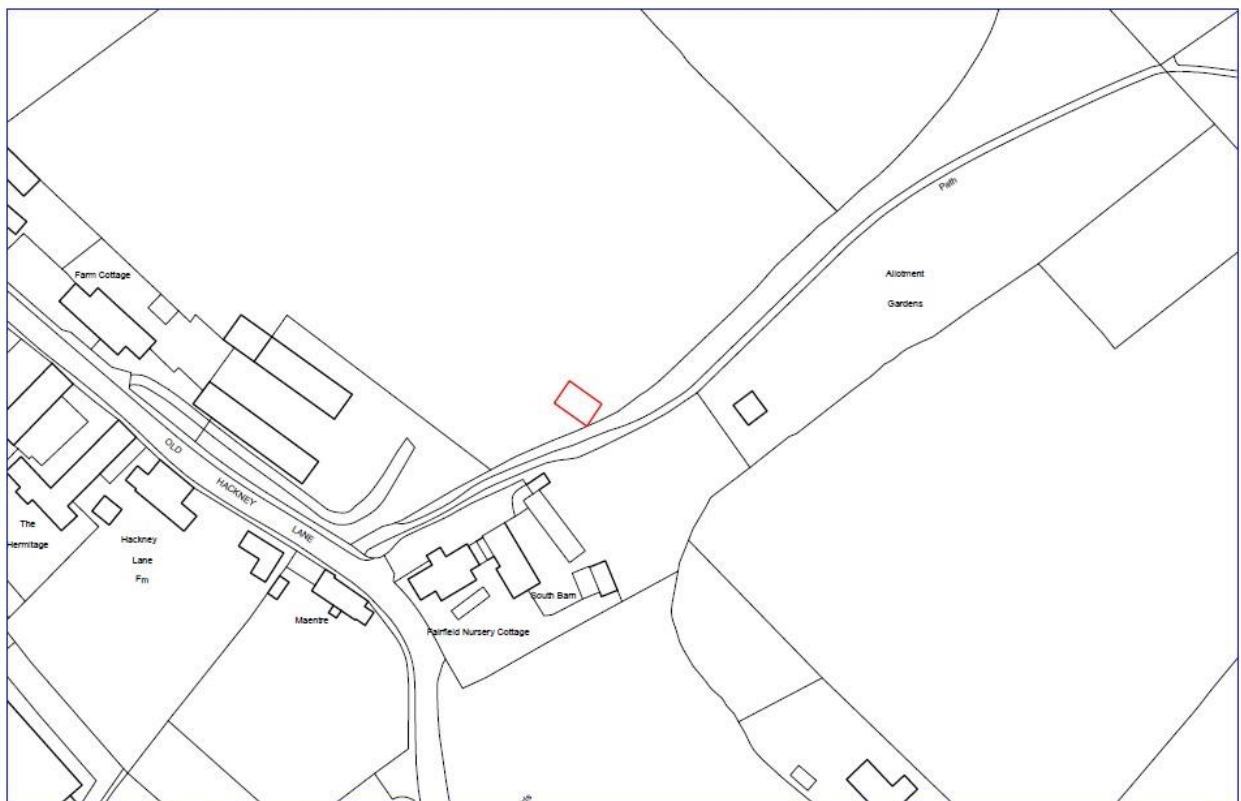
This is the plan referred to in my decision dated: 26 November 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

Land at: Oakstone Farm, Old Hackney Lane, Hackney, Matlock, DE4 2QJ

Reference: APP/P1045/C/18/3216690

Scale: Not to Scale



© Crown Copyright and database rights (2019) Ordnance Survey (100019785)

Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire, DE4 3NN.
Telephone: (01629) 761100. Website: WWW.DERBYSHIREDALES.GOV.UK



18/10/2019



Appeal Decisions

Site visit made on 29 October 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal A: APP/P1045/C/19/3229973

Appeal B: APP/P1045/C/19/3229974

196-198 South Parade, Matlock Bath, Derbyshire DE4 3NR

- 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 appeals are made by Mr Matthew Oliver (Appeal A) and Miss Margaret Newton (Appeal B) against an enforcement notice issued by Derbyshire Dales District Council.
 - The enforcement notice was issued on 21 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission:
(a) The painting of the shopfront with a paint colour that is not approved under the Matlock Bath Conservation Area Article 4 Direction.
 - The requirements of the notice are to repaint the entire shopfront to its former black colour, with cream detailing, in order to match those colours which were the last approved colours for the painting of the premises.
 - The period for compliance with the requirements is 3 months.
 - The appeals are proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
-

Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Procedural Matters

2. The evidence before me refers to the planning merits of the development and whether planning permission should be granted. However, as there is no appeal on ground (a) and no deemed planning application for me to consider they are not relevant to my decision. Furthermore, I am not empowered to consider whether or not planning permission should be granted for the development as there is no appeal on ground (a).

The ground (f) appeal

3. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
4. Section 173 of the 1990 Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. These are either to remedy the breach of planning control which has occurred (section 173(4)(a)), or to remedy any injury to amenity that has been caused by the breach (section 173(4)(b)).

5. The Council has not identified which of these purposes it seeks to achieve. Nonetheless, in requiring the shopfront to be repainted to its former colour scheme, it is evident that the Council seeks to remedy the breach.
6. The appellants suggest that the shopfront has never been painted black and cream as stated in the requirements of the enforcement notice. However, the Council has provided a photograph which, has a date stamp of 16 March 2015 on it, indicates that at that time the shopfront was painted in those colours. The Council have also stated that that colour scheme was in place when the Article 4(1) Direction of the Town and Country Planning (General Permitted Development) Order 1995 (Article 4 direction) was adopted. I have no reason to dispute this.
7. I accept that the schedule attached to the revised Article 4 direction suggests alternative colour schemes that could be utilised on the appeal property's shopfront. Nevertheless, the appellants' argument is not supported by any details of an alternative colour scheme. Consequently, without those details I am unable to fully assess whether the changes being proposed would be in line with the Article 4 direction. Neither am I able to vary the notice to the necessary level of precision.
8. Given that the notice does no more than seek to achieve the purposes of section 173(4)(a) of the 1990 Act, it is not excessive. The appeals on ground (f) fails.

Conclusion

9. For the reasons given above I consider that the appeals should not succeed.

D. Boffin

INSPECTOR



Appeal Decision

Site visit made on 26 November 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2019

Appeal Ref: APP/P1045/D/19/3236391

16 Cobden Road, Matlock DE4 3JR

- 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 & Mrs Barton against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00188/FUL, dated 15 February 2019, was refused by notice dated 11 June 2019.
 - The development proposed is demolition of existing single storey extension and construction of two storey extension in its place.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing single storey extension and construction of two storey extension in its place, at 16 Cobden Road, Matlock DE4 3JR, in accordance with the terms of the application, Ref 19/00188/FUL, dated 15 February 2019, and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 929538-SK-01 (Location Plan); 929538-SK-02 (Block Plan); 929538-SK-03 (Existing Plans); 929538-SK-04 (Proposed Plans); 929538-SK-05 (Existing Elevations); 929538-SK-06 (Proposed Elevations).
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown and described on plan numbers 929538-SK-04 (Proposed Plans) and 929538-SK-06 (Proposed Elevations).

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the Matlock Bank Conservation Area

Reasons

3. The appeal relates to a detached dwelling located high on the hillside to the northern side of Matlock. The site lies within the Matlock Bank Conservation Area (the MBCA) and I have had regard to the statutory duty¹ in reaching my decision. The Council's Conservation Area Appraisal (2007) states that the

¹ Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

character of the MBCA is predominantly formed by the steep Derwent Valley hillside topography and resulting dramatic views, coupled with the wealth of architectural heritage of the hydropathic industry. Distinctive characteristics include the steep hillside resulting in expansive views across the Derwent Valley; linear rows of development aligned on a predominantly east-west axis, generally following the contours of the bank; and a number of older vernacular cottages, predating the hydropathic industry.

4. The appeal building is a vernacular stone cottage and makes a positive contribution to the historic and architectural significance of the MBCA. However, the existing dwelling has a single storey, lean-to extension to the gabled side elevation, from which extends a flat canopy roof forming an open-fronted car port and store. These additions, through the use of contemporary roofing materials, contrast somewhat with the traditional appearance of the dwelling. The proposal would replace the lean-to extension with a two storey extension with a pitched roof resembling that on the main dwelling.
5. In scale and form, the extension would be narrow and would almost match the height of the main building, continuing its established, elongated shape. Though the Council is critical of the extension lacking subservience, the roof pitch would be set slightly lower in height such that the fact that it is a later extension could be discerned. Overall, the size and form of the extension would respect the scale, shape and materials of the existing dwelling.
6. The Council further refers to the loss of distinctive gable features, namely stone kneelers, copings and the chimney stack. These are visible features of the side elevation on approach to the property up Cobden Road. Based on my observations on site and reference to the plans, these features would be partially obscured by the extension, but would not be lost completely, given the extension roof would be set lower than the gable parapet and the chimney stack would be retained. Whilst they are identifiable features of the building, I did not observe them to be homogenous features of buildings in the area, nor are they identified as important or distinctive features of the conservation area.
7. This notwithstanding, these features are proposed to be included on the gable of the proposed extension. Therefore, whilst the proposed extension would partially obscure the existing stone kneelers and copings of the existing gable end, this would be balanced by their inclusion on the new gable, along with the removal of the modern white framed lean-to roof.
8. The proposed extension would be visible from the approach around the final bend on Cobden Road, would be glimpsed between buildings from below on Jackson Road, and would form part of longer views of the whole hillside from elsewhere in Matlock. However, in each of these views the extension would form a minor element of the wider conservation area and would not appear discordant given the variety of dwelling shapes surrounding the appeal site and their organic arrangement across the hillside. It would not detract from the significance of the heritage asset as a whole.
9. Taking these considerations together, I find that the proposal would preserve the character and appearance, and heritage significance, of the MBCA. Accordingly, I find no conflict with Policies HC10, PD1 and PD2 of the Derbyshire Dales Local Plan 2017, which respectively support extensions to dwellings which are in keeping with the scale and character of the original dwelling and site's wider setting; require new development to be of a high

quality design reflecting a clear understanding of site context to create well designed, socially integrated, high quality successful places; and require the conservation of heritage assets in a manner appropriate to their significance.

Other Matters

10. I have had regard to other matters raised, including the personal family circumstances of the appellants; however, as I have not identified harm in respect of the main issue, it is not necessary to consider these other matters further as they would not alter the outcome of the appeal.

Conditions

11. I have imposed the standard time limit condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring adherence to the proposed materials is needed in the interests of the character and appearance of the host dwelling and the surrounding conservation area.

Conclusion

12. For the foregoing reasons and having regard to all other matters raised, the appeal is allowed.

K Savage

INSPECTOR

Appeal Decision

Site visit made on 26 November 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/P1045/D/19/3236303
150 Cavendish Road, Matlock DE4 3HE

- 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 Jack Kernaghan against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00507/FUL, dated 30 April 2019, was refused by notice dated 18 July 2019.
 - The development proposed is 'to drop kerb to create driveway.'
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety.

Reasons

3. Cavendish Road is a long, narrow residential street with dwellings lining both sides of the street, except toward the western end where dwellings, including the appeal site, stand only on one side, with a playground and open fields on the other. On-street parking is prevalent along the length of the street, which effectively reduces the road to a single lane and requires oncoming traffic to pull in between parked cars. The appeal site is located on the inside of the curve in the road as it turns towards Wolds Rise.
4. The Local Highway Authority (LHA) commented that a new vehicular access at this location, based on the 30mph speed limit, should achieve emerging visibility sightlines of 43 metres in both directions from a 2.4 metre setback, this being the approximate position of a driver without the vehicle overhanging the highway. No measured sightlines have been provided by the appellant, but the LHA estimate visibility of no more than 8 metres in either direction.
5. On site, I saw that visibility was heavily restricted by the presence of shrubbery on both sides. Much of the shrubbery on the right (looking at the site from the road) would be removed to facilitate the access itself, with plans showing only a narrow planting strip retained to that side. However, the proposal also includes a new wall to the front of 750mm in height, which would in itself cause an obstruction to sightlines in this direction. Moreover, to the other side, shrubbery is located on a neighbouring property over which the appellant would have no control.

6. The appellant points to the low speeds of vehicles along Cavendish Road. I saw that this was the case due to the single lane sections along much of its length. The LHA acknowledge this and point out that at 20mph, recommended sightlines would be 25 metres, though its acceptance of this would depend of detailed evidence of actual speeds on the road, which have not been provided. Whilst visibility distance requirements should not be set aside lightly, it is possible that in lightly trafficked areas where slower speeds prevail, adherence to the precise standard might not be necessary.
7. However, though I acknowledge that lower speeds prevail, and the road was lightly trafficked at the time of my visit, the visibility distances would be extremely poor even judged against a 20mph standard and there would be very little advance warning for persons walking or driving on the highway of the impending manoeuvre of a vehicle emerging from the driveway. Given the road is a bus route and there is a playground opposite, with the footway only on the adjacent side to the appeal site, there is a likelihood of pedestrians, including small children, being present in and around the site. The egress of vehicles would lead to danger to road users as there would not be clear lines of sight in either direction to other vehicles or pedestrians using the highway.
8. I observed other accesses along Cavendish Road. A number of these were also restricted by walls, foliage and parked cars and did not appear to provide safer access than the appeal scheme. However, the presence of other restricted accesses does not justify a further access that would have restricted visibility and would increase the risk to vehicles or pedestrians using the highway.
9. The appellant argues that the proposal would result in one fewer a car being parked on-street; however, this would have a negligible effect on parking levels overall on the street, and would not offset the risks associated with the proposed access. The appellant also points to Cavendish Road forming the route to proposed housing development nearby. Though I do not have details of such proposals, were traffic to increase on the road, this would only add to my concerns in respect of highway safety.
10. For these reasons, I conclude that the proposal would have an unacceptable risk to highway safety and would conflict with Policy S3 of the Derbyshire Dales Local Plan (December 2017) which supports development where the access would be safe and the highway network can satisfactorily accommodate traffic generated by the development.

Other Matters

11. The appellant points to concerns over tool theft from his van and the extra security parking the van off-street would provide, whilst the driveway would make the dwelling wheelchair accessible. I acknowledge there would be advantages in both respects; however, other measures exist to address security and wheelchair access could be provided without creating a driveway. As such, these matters attract limited weight in favour of the proposal.
12. The Council did not raise objection in terms of the effect of a driveway on the character and appearance of the area, though this would be a neutral factor overall. I also note concerns raised by a neighbour in respect of a loss of outlook were a large van to be parked on the driveway, and informal undertakings from the appellant not to do so; however, as I am dismissing the appeal for other reasons, it is not necessary to address this further.

13. Finally, the appellant points to conflicting advice being given by the Council before making the application; however, I have no substantive evidence of this and have considered the proposal on its planning merits.

Conclusion

14. The proposal would result in conflict with the development plan which is not outweighed by other material considerations identified. Therefore, I dismiss the appeal.

K. Savage

INSPECTOR

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