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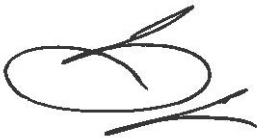
10 July 2020

To: All Councillors

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday, 21 July 2020 at 6.00pm** via the zoom application.  
(Joining details will be provided separately)

**Under Regulations made under the Coronavirus Act 2020, the meeting will be held virtually. As a member of the public you can view the virtual meeting via the District Council's website at [www.derbyshiredales.gov.uk](http://www.derbyshiredales.gov.uk) or via our YouTube channel. PLEASE NOTE CHANGE TO PUBLIC PARTICIPATION SCHEME AND DEADLINE**

Yours sincerely



Sandra Lamb  
Head of Corporate Services

## **AGENDA**

**SITE VISITS: A Presentation with photographs and diagrams will be given in lieu of site visits.**

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

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

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

Planning Committee – 3 March 2020

### **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**

Public Participation, as provided for in the Constitution, is suspended temporarily and is replaced with an alternative mechanism for the public to bring matters to the Council’s attention.

Members of the public **WHO HAVE GIVEN PRIOR NOTICE** of their wish to express views, ask questions or submit petitions relating to planning applications under consideration are invited to submit their questions or comments in writing, before **12 noon on Thursday, 16 July 20** by the following means:

**Webform:** [Make your submission here](#)

**Email:** [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk)

**Post:** Democratic Services, Derbyshire Dales District Council, Town Hall, Matlock DE4 3NN

The Committee Team will assist any member of the public without access to electronic means by capturing their concerns over the telephone.

**Phone:** 01629 761375 (working days only 9am – 5pm)

Any such correspondence will be summarised, addressed and published on the website with the committee paper ahead of the meeting. Where appropriate/relevant your comments may be raised and discussed at the meeting.

The public will not be admitted to the meeting through virtual means. All meeting proceedings open to the public will be streamed live on our YouTube channel when all non-exempt items are being considered. Recordings of the meeting will also be available after the event on the District Council’s website.

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<b>4.2 APPLICATION NO. 20/00255/FUL (Presentation)</b>	<b>32 – 44</b>
Change of use and conversion from former bank (Use Class A2) to 8 no. apartments with a new rear extension at 4 St John Street, Wirksworth.	
<b>4.3 APPLICATION NO. 20/00264/FUL (Presentation)</b>	<b>45 – 59</b>
Change of use of ground floors from former bank (A2 Use) to wine bar (A4 Use) at 19 Dale Road, Matlock.	
<b>4.4 APPLICATION NO. 20/00269/LBALT (Presentation)</b>	<b>60 – 68</b>
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no. apartments with a new rear extension at 4 St John Street, Wirksworth.

**4.5 APPLICATION NO. 20/00295/FUL (Presentation) 69 – 93**

Proposed co-housing development comprised of 2 no. semi-detached dwellings and associated garden courtyard at Land North Of Crown Yard, Wirksworth.

**5. INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS 94 – 102**

**6. APPEALS PROGRESS REPORT 103 - 148**

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

**Members of the Committee**

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

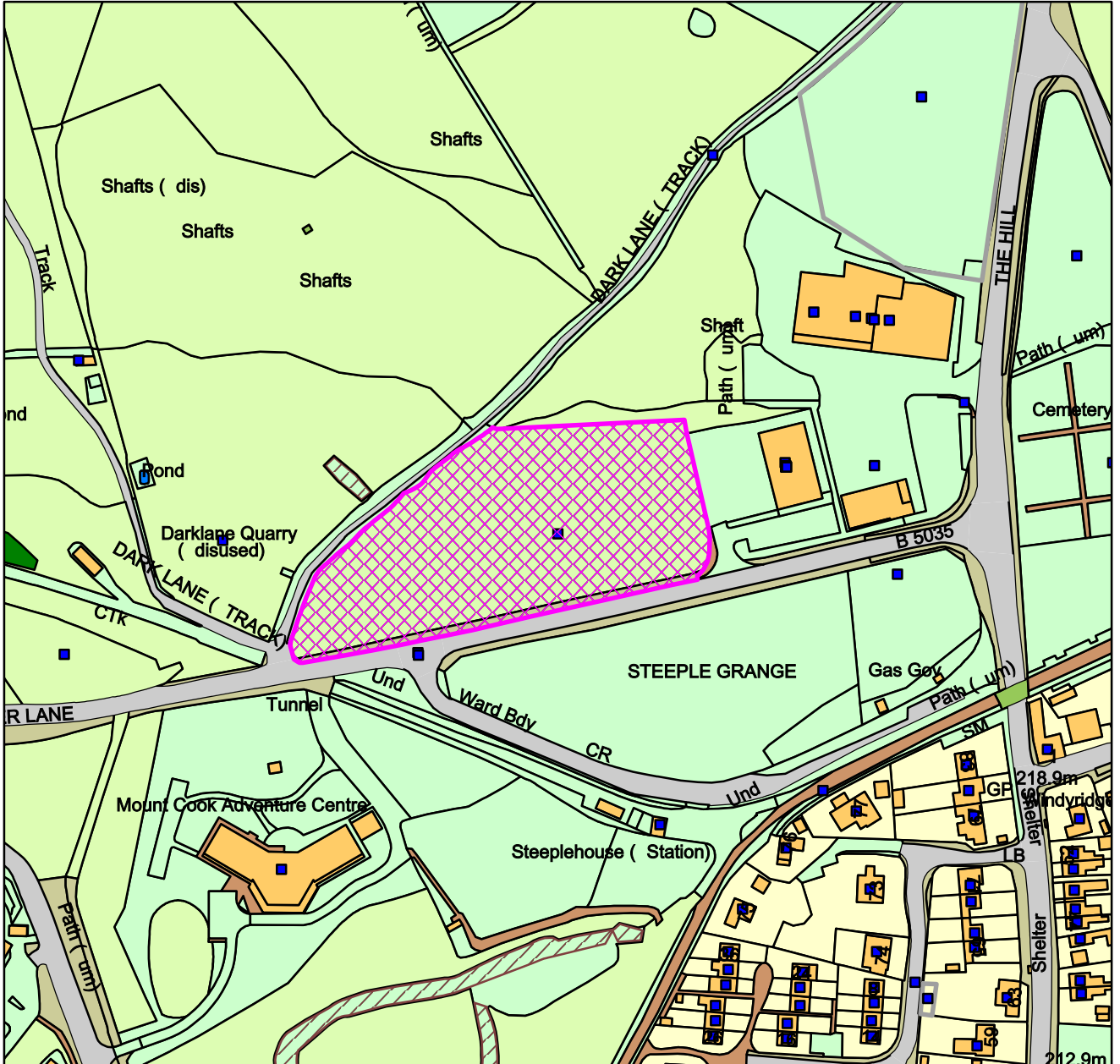
Robert Archer, Matthew Buckler, Sue Bull, Sue Burfoot, Tom Donnelly, Richard FitzHerbert, David Hughes, Stuart Lees, Joyce Pawley, Garry Purdy and Peter Slack.

**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.

19/00712/FUL

Land West of Blackrocks Business Park, Porter Lane, Wirksworth



Derbyshire Dales DC

1:2,500

Date: 09/07/2020

100019785

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

<b>APPLICATION NUMBER</b>		19/00712/FUL	
<b>SITE ADDRESS:</b>		Land West Of Blackrocks Business Park, Porter Lane, Wirksworth	
<b>DESCRIPTION OF DEVELOPMENT</b>		Erection of 5no. industrial and commercial buildings with associated new access and landscaping	
<b>CASE OFFICER</b>	Mr. G. A. Griffiths	<b>APPLICANT</b>	Mr A Millward
<b>PARISH</b>	Cromford	<b>AGENT</b>	Planning Design Practice Ltd
<b>WARD MEMBERS</b>	Cllr. G. Purdy Cllr. Mrs. J. Pawley	<b>DETERMINATION TARGET</b>	23 <sup>rd</sup> July 2020
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Major Application	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Principle of Development</li> <li>• Impact on the character and appearance of the Area and the Derwent Valley Mills World Heritage Site Buffer Zone</li> <li>• Landscaping</li> <li>• Highway Safety</li> <li>• Public Rights of Way</li> <li>• Site Contamination</li> <li>• Land Drainage</li> <li>• Climate Change</li> <li>• Impact on Wildlife</li> <li>• Impact on Archaeology</li> </ul>

<b>RECOMMENDATION</b>
Approval

# 1. THE SITE AND SURROUNDINGS

- 1.1 The site is a field set to the north of Porter Lane and to the west of existing industrial units, the one accessed off Porter Lane being the applicant's premises. To the north of the site is an area of open land which is designated as a Local Wildlife Site. Beyond this, and Dark Lane, to the north and west is the Gang Mine Nature Reserve which is within a Geological Site (RIGS) and is a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). To the south, and on the opposite side of Porter Lane, is the Mount Cook Adventure Centre set within substantive grounds. Beyond this is the High Peak Trail leading to Black Rocks, which are tourist/recreation areas, and the cemetery off Cromford Hill from where the application site can be viewed.
- 1.2 The site is within the Derwent Valley Mills World Heritage Site Buffer Zone, the boundary of which runs along part of the High Peak Trail, along Old Porter Lane and past the south west corner of the application site and across the SSSI.
- 1.3 Whilst the site is currently open countryside, it is designated under Policy EC2(h) of the Adopted Derbyshire Dales Local Plan (2017) as a site for strategic employment development.







## 2. DETAILS OF THE APPLICATION

- 2.1 Full planning permission is sought for the development of 5 industrial and commercial buildings, with associated access and landscaping. The buildings are proposed to comprise three buildings measuring 25m x 15m and 6m high (Phase I) and two measuring 30m x 18 m and 6.3m in height (Phase II). It is proposed that Phase I would be constructed to the west of the proposed access and Phase II to the east. It is also proposed that Phase II area will be used for the storage of vehicles associated with the applicant's vehicles and plant.
- 2.2 The buildings in Phase I are proposed to be constructed with stone plinths, timber and grey, metal profile cladding for the walls and with light grey, metal profile roofs. It is proposed that the elevations facing Mount Cook will be of timber cladding. The buildings in Phase II are proposed to be constructed with stone plinths and grey, metal profile cladding for the walls and with light grey, metal profile roofs. Whilst the elevations show first floor windows, the applicant has confirmed that they are only applying at this stage for ground floor accommodation. Whilst these have the potential to be adapted later to incorporate first floors, this would be subject to the consideration of a further planning application.

2.3 The applicant has submitted the following documents in support of the application:

Planning, Design and Access Statement

2.4 This advises that Black Rocks Business Park houses three companies:

- Millward Plant – specialising in civil engineering , groundworks, industrial installations and plant hire
- Derbyshire Concrete – supply ready-mixed concrete to client’s specification. Currently have three trucks but are running at full capacity and are turning down orders – expect to double staff numbers in the next 2-3 years.
- Intelligent Vending – unit mainly used for research and software development for fully pc controlled vending machines. Jobs are very highly skilled and company requires further space to expand and, primarily, require an office and showroom.

2.5 It is advised that two of the smaller units have confirmed users, for the likely expansion of Derbyshire Concrete and Intelligent Vending, and the applicant considers another high skilled company would fit well within the third unit. The other two buildings would be built out as Phase II and the applicant advises that local companies have shown interest. These larger units also have the potential for subdivision.

2.6 In terms of the impact of the development in the landscape, the applicant advises that the site has a slope of some 1:12 and there will need to be some excavation work to provide the flattened areas for the size of the buildings proposed. The cutting out of material to create the flattened areas will serve to drop the buildings in the landscape and thus have better screening. It is advised that the three upper level units will be designed in a manner where they will blend in with views of Mount Cook Adventure Centre on the opposite side of Porter Lane.

2.7 In terms of landscaping, it is proposed to retain the existing hedgerows and to supplement these where gaps are present. To address the site levels, there are proposed to be retaining walls with hedges planted along them to seek to blend the development into the landscape. A bund is also proposed to the eastern edge of the site to screen the development from views from public rights of way.

2.8 The applicant appreciates that some of the buildings will be visible and there will be an impact in the streetscene with the removal of existing hedge to form the access but advises that this will be read contextually with the access to the existing commercial site. The applicant considers that the site will be read contextually with other commercial premises at the Palin’s site to the north, where there are several buildings and planning permission has been previously granted for further buildings on that site.

2.9 In addition, the field to the north of the Palins site is allocated under Policy EC2(g) for further commercial development and is currently being considered by the District Council for outline planning permission for such (ref: 19/00102/OUT). The site would also be viewed contextually with Mount Cook and Dean Quarry, particularly in views from Black Rocks to the east. As such, the applicant considers that the site is set within a varied landscape and that an extension to the existing commercial site would not appear out of place.

Flood Risk Assessment (FRA)

2.10 It is advised by the applicant’s consultant that residual flood risks of the site can be mitigated through appropriate site layout, levels and drainage design and that less vulnerable development, as proposed, is appropriate for the site. It is advised that a sustainable drainage system will ensure the drainage hierarchy is followed and that the soil is expected to be suitable for infiltration to ensure no increase in surface water runoff from the site and,



consequently, no flood risk elsewhere. The applicant has also provided further details to address concerns with respect to drainage of the site to seek to address concerns raised by the Environment Agency and the Lead Local Flood Authority (LLFA).

#### Site Access Appraisal

- 2.11 The applicant has commissioned consultants to undertake a site appraisal of the access. It is recommended that the site access should comprise the following:
- access located at the preferable location to achieve the required visibility splays in a vertical and horizontal plane;
  - a 7.3m wide carriageway;
  - a 0.5m wide verge at the western edge of the access road;
  - a 2m wide verge at the eastern edge of the access road to continue along the northern edge of Porter Lane connecting into the existing footway (or an option to connect between the two business parks); and
  - a 10m wide radii kerb.
- On this basis, the applicant's consultant advises that the access can be delivered to meet local and national guidance.

#### Site Contamination Phase I Desk Study

- 2.12 This raises potential issues for site remediation but advises that this can be addressed through proposed Phase II exploratory works to include the following:
- a programme of exploratory holes across the site to provide an initial inspection of the ground conditions for geotechnical and environmental purposes;
  - geotechnical and environmental soil analysis;
  - a robust programme of ground gas and water level monitoring;
  - a contaminated land risk assessment; and
  - a revision of the conceptual site model.

#### Preliminary Ecological Appraisal (Including Great Crested Newt and Reptile Surveys)

- 2.13 The area to the north of the site is a Local Wildlife Site (LWS): DD336 Dark Lane Spoil Heaps South and part of this falls within the applicant's ownership. It is not proposed to build on this area and the hedgerow and stone wall along the northern boundary are proposed to be retained and enhanced. The applicant advises that these measures will act as protection of the LWS and the planting of native tree and shrub species will promote bat and other wildlife habitat. The reptile survey and great crested newt survey identified no species on the site although precautionary measures are recommended.
- 2.14 The applicant acknowledges that the landscape will change through the creation of built form but considers that this will have a minor-negligible impact and does not consider that this outweighs the benefit of the addition of high quality units to the District Council's employment land supply, therefore providing a public benefit, in line with Paragraph 196 of the National Planning Policy Framework.
- 2.15 The applicant has also commissioned an ecological assessment of the potential for impact of the development on the Bage Mine Special Area of Conservation, for assessment by Derbyshire Wildlife Trust, and which forms a shadow Appropriate Assessment/Habitat Regulations Assessment made on behalf of the Local Planning Authority for the consideration of Natural England.

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

- 3.1 Adopted Derbyshire Dales Local Plan (2017)
- S1 Sustainable Development Principles
  - S4 Development in the Countryside
  - S6 Strategic Employment Development

S7	Matlock/Wirksworth/Darley Dale Development Area Strategy
PD1	Design and Place Making
PD2	Protecting the Historic Environment
PD3	Biodiversity and the Natural Environment
PD5	Landscape Character
PD6	Trees, Hedgerows and Woodlands
PD7	Climate Change
PD8	Flood Risk Management and Water Quality
PD9	Pollution Control and Unstable Land
HC19	Accessibility and Transport
HC20	Managing Travel Demand
HC21	Car Parking Standards
EC1	New Employment Development
EC2	Employment Land Allocations

3.2 National Planning Policy Framework

3.3 National Planning Practice Guidance.

#### 4. RELEVANT PLANNING HISTORY

None.

#### 5. CONSULTATION RESPONSES

##### Cromford Parish Council

- 5.1 - no objection to initial proposals  
 - will discuss the amended/additional information at its meeting on 15<sup>th</sup> July 2020 and will be reported to the Planning Committee meeting.

##### Wirksworth Town Council

- 5.2 - no comment but refer to matters with regard to climate change.

##### Environment Agency

- 5.3 - comments on the initial submission:
- the previous use of the proposed development site as a lead mine presents a high risk of contamination that could be mobilised during construction to pollute controlled waters
  - controlled waters are particularly sensitive in this location because the proposed development site is within source protection zone 1 (Meerbrook Sough) and is located upon a principal aquifer associated with the Eyam Limestone
  - applicant's Phase 1 Desk Study demonstrates that it will be possible to manage the risks posed to controlled waters by this development but further detailed information will be required before built development is undertaken
  - consider that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the Local Planning Authority
- comments on the additional information:
- have reviewed the Drainage Strategy from BSP, Contamination Assessment from GeoDyne and the previous Phase 1 Desk Study
  - largely satisfied with the conclusion of the Contamination Assessment and that risks to groundwater are reported as low
  - development will incorporate significant amount of hardstanding which will limit infiltration into made ground, but would like to include the 'unsuspected contamination' condition

- applicant is aware that discharge of treated sewerage to the ground will require an application for an Environmental Permit
- Drainage Strategy provides assurance that areas of contamination will be isolated from infiltration
- have no objection to infiltration type drainage in principle, from clean run-off and roof water, but have some concern regarding run-off from car parks which would expect to see directed to an interceptor
- require conditions.

#### Lead Local Flood Authority (Derbyshire County Council)

- 5.4 - comments on the initial submission
- have noted that the proposed surface water discharge destination is to infiltration
  - applicant has considered a range of SuDS features (permeable paving, swales, filter drains and rain gardens) and incorporation of any proposed SuDS features will need to be finalised at the detailed design stage
  - Severn Trent Water (STW) have previously advised that the existing sewers in the area, and the treatment works, are running at full capacity and that disposal of surface water runoff to the sewer system should be a last resort - any connection to the public sewer would therefore need to be agreed with STW
  - advise of the need to attach conditions to any grant of planning permission.
- comments on the amended land drainage details will be presented to the Planning Committee meeting.

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

- 5.5 - comments on the initial submission:
- proposed footpath along Porter Lane to the bus stop not shown on the submitted plans
  - parking provision acceptable but would want it more evenly distributed across the site
  - adequate visibility splays to the access can be achieved.
- comments on the amended plans/additional information
- no objection subject to conditions with respect to access for construction vehicles, wheel cleaning facilities, the provision of a public footpath along Porter Lane, visibility splays and car parking space provision.

#### Peak and Northern Footpaths Society

- 5.6 - no objection provided the full width of Footpath 15 (Cromford), which abuts the northern boundary of the site, remains unobstructed at all times
- the proposals to use planting to screen the view of the site from development are welcome.

#### Derbyshire Dales Group of Ramblers

- 5.7 - no objection providing that: Cromford FP 15 east off Dark Lane and Cromford FP 16 NW, off the junction of Dark Lane and Porter Lane, are not affected during development nor afterwards
- there is an old notice of an Order dated March 2018 on a nearby post for a Restricted Byway along Dark Lane - this Order should be checked with PRoW to see if it is still pending or has progressed
  - would support the Order for a RB along Dark Lane to ensure safety for walkers, cyclists and horse riders
  - note the police comments on security and a RB can only add to the security of the proposed site
  - Dark Lane should remain open and accessible both during and after development as it is essential to access RoWs off it
  - the landscaping proposals are welcome.

## Natural England

- 5.8 - comments on initial submission:
- objection as no assessment has been provided of the potential impacts that the proposal will have on the Gang Mine Special Area of Conservation (SAC)
  - insufficient information for the Local Planning Authority to undertake a Habitats Regulation Assessment of the proposed development
  - advise obtaining an appropriate Ecological Assessment of the SAC, as this currently only refers to the SSSI with no reference to this being a European Designated Site
  - the SAC is approximately 10m from the proposed construction site which could be impacted upon through air quality impacts such as dust and potential water quality effects from construction activities
  - note that are not seeking further information on the other aspects of the natural environment, although may make comments on other issues in final response.
- further to submission of further information from the applicant with regards to Natural England's comments on the nearby proposed commercial site at land between Dark Lane and Cromford Hill (ref: 19/00102/OUT) advise:
- no objection subject to appropriate mitigation being secured with respect to a scheme of surface water drainage and dust management which details how the Gang Mine SAC and the SSSI will be protected from dust during construction.
- further to the submission of the Appropriate Assessment:
- no objection subject to appropriate mitigation being secured with respect to a scheme of a construction management plan and a dust management plan.

## Derbyshire Wildlife Trust

- 5.9 - comments on initial submission:
- the application site includes part of Dark Lane Spoil Heaps South Local Wildlife Site (DD336) and the development boundary is within 5–10 metres of Gang Mine Site of Special Scientific Interest and Special Area of Conservation - this site is managed by Derbyshire Wildlife Trust as a nature reserve on behalf of Tarmac Ltd.
  - the preliminary ecological survey only provides a broad impression of the habitats present at the site. The report has undertaken a desk top study, but has not acknowledged the presence of a Special Area of Conservation (as well as SSSI). The presence of the Gang Mine SAC was included in the data provided by Derbyshire Biological Records Centre, but does not appear in the report
  - the ecological report does not provide an assessment of the potential impact on the adjacent SAC and as such Natural England's request for an assessment should be taken on board (NE consultation letter 24th July 2019)
  - the report lacks sufficient detail and has not identified a wide range of plant species that occur within the development site. Most notably the survey does not distinguish between the area of the development site that falls within the LWS and the area that falls outside of the LWS. The survey does not therefore adequately assess the impact on the LWS
  - the site layout design illustrated on the proposed block plan and the detailed planting plan indicate that there would be an adverse impact on the LWS and a subsequent loss of biodiversity
  - estimate that around 0.2 ha of the LWS could be directly impacted which is almost one-third of the entire LWS
  - a site visit has confirmed that the area of the LWS likely to be affected still supports floristically rich vegetation. During the visit by DWT 21 grassland indicator species used in the selection of Local Wildlife Sites were recorded. This includes at least one Nationally Scarce plant species spring sandwort (*Minuartia verna*) - a full list is appended



- the grassland vegetation is part of the larger LWS that includes the UK BAP priority habitat types Lowland Calcareous Grassland and Calaminarian Grassland. The ecology report does not identify the presence of this diverse area of grassland and did not record most of the 21 indicator species that are present
- with respect to the proposed block plan the edge of the development will be immediately adjacent to the edge of the LWS and there is no provision for a buffer to the LWS
- hard to envisage how the development could be constructed without there being an impact on the LWS, but the extent of this impact remains unclear
- likely that there will be longer term indirect impacts resulting from the change in land-use and change in environmental conditions (especially light levels as the buildings will cast shade)
- of equal or greater concern are the proposed landscaping plans that include planting of shrubs, trees and a hedgerow for the purposes of screening the development and seeding of a rough grassland mix onto the areas of the LWS of greatest floristic value - seems unlikely that much of the original interest of the LWS would survive this treatment
- at the western end of the development close to Dark Lane, Unit 3 does not allow for a sufficient buffer between the development and the wall - this western part of the site is also relatively floristically diverse and the wall along Dark Lane supports a diverse flora and fauna
- the UK BAP priority butterfly *Lasiomatta megera* was observed during the visit which is now largely confined to a few colonies in the White Peak. Gang Mine and Rose End Meadows are one of the strongholds for this species. It is considered highly likely that some parts of this site are also used by other UK BAP priority butterflies
- ensuring there is a buffer between the development and the existing wall boundary is essential if this habitat and the associated species are to be protected. Furthermore current proposals for landscaping would be equally damaging in this area
- if implemented in its current form, including the landscaping, the proposals will have a significant negative impact on biodiversity resulting in the loss of part of a Local Wildlife Site (DD336), areas of UK BAP priority habitat and loss of habitat for UK BAP priority species
- the landscaping proposals would result in the loss of most of the LWS habitat through inappropriate planting of trees and shrubs and the establishment of a hedgerow on top of the grassland and the landscaping is equally damaging in the west where the existing open grassland habitat would be affected by hedgerow planting and bund creation
- there will also be an additional impact on the existing hedgerow that runs alongside Porter Lane as the proposed access will require a section of this hedge to be removed and this impact is not quantified in the ecology report and it is unclear how a net loss is going to be avoided, especially given that the proposed hedgerow around the edge of the site will result in an adverse impact on grassland habitat
- note that there has also been a reptile survey and that this did not find any reptiles using the site - consider the survey to have been undertaken to a reasonable standard and the recommendations made in the report should be followed
- also note that there the great crested newt survey of nearby waterbodies did not record any GCNs - however, there is an additional waterbody within 500m with a GCN record (2006) and therefore a possibility that GCN could use the site as terrestrial habitat and as such precautionary measures would be needed during site clearance and construction
- strongly recommend that the layout of the proposed development is revised and the number of units is reduced to 3 or 4 to reduce the impact on biodiversity
- there is little flexibility regarding buffering the LWS and with the layout an adverse impact is unavoidable
- the landscape proposals are, in their current form, unacceptable and would result in the loss of most of the LWS and the habitat used by wall butterfly and potentially other

UK BAP priority species and species of principal importance under Section 41 of the NERC Act in England

- the development as it stands would result in a net loss in Biodiversity and be contrary to national and local planning policies as set out in NPPF and the DDDC Local Plan
  - would advise that in the first instance the layout is amended to try and reduce and minimise impacts on biodiversity and that it incorporates a buffer to the boundary of the LWS and a buffer to the edge of Dark Lane
  - advise that Natural England's comments regarding the lack of assessment of potential impacts on the Gang Mine SAC also need to be addressed
  - if the footprint of the application can be altered and the landscaping schemes changed to enhance the affected areas of the existing LWS rather than its destruction, it should be possible to avoid a significant loss of biodiversity.
- further to the submission of additional/ amended information and information to form the Appropriate Assessment:
- welcome changes aimed at safeguarding the LWS and note measures to be put in place to prevent mechanical damage and protective measures and mitigation and adverse impacts can be kept to a minimum and net loss to biodiversity should be avoidable.

#### Derwent Valley Mills World Heritage Site Panel

##### 5.10 - object

- site forms part of World Heritage Site's (WHS) arrested rural landscape setting as a relatively unaltered green field
- site is surrounded by many historic built features such as the Cromford and High Peak railway, lime kilns, field barns, etc. which contribute to the immediate setting of the WHS
- also likely that the site and surrounding landscape will be host to a variety of associated archaeology which contributes to the WHS narrative.
- whilst previous development has been allowed, in the form of industrial units, on land directly opposite the proposed development site, any further development would have a harmful negative impact on the setting of the WHS and subsequently its outstanding universal value (OUV).

#### Development Control Archaeologist (Derbyshire County Council)

##### 5.11 - Dovegang Mine was identified in the 2004 *Inventory of Regionally and Nationally Important Lead Mining Sites in the Peak District* (produced by the Peak District National Park Authority)

- site was identified as of 'high priority' in relation to preservation of hillocks and the presence of documented early mining evidence. This establishes the site as a whole as of regional or national importance
- site is clearly an 'undesignated heritage asset' *sensu* NPPF chapter 16, and at the higher end of importance within the class of undesignated assets. NPPF para 189 therefore requires that the applicant submits sufficient information to allow the significance of the heritage asset to be understood and the impact of the proposed development thereon established
- the applicant submitted photographic evidence of when the site was previous stripped and lead mine shafts were capped in 1994 and when material from the Black Rocks Business Park was tipped on the site in 2004
- there appears to be no remaining archaeological potential with regard to above-ground earthworks or to shaft tops/ginging, etc and associated mining structures and therefore no further archaeological information is required.

#### Economic Development Manager (Derbyshire Dales District Council)

##### 5.12 - support the Council's objectives to address the shortage of new B Class employment floorspace within the district

- in response to Economic Development Officer comments at pre-app stage, the proposed scheme comprises a denser development in terms of employment floorspace, including better utilisation of the site frontage
- scheme also includes a range of unit sizes comprising part workshop space/part office and incorporates roller shutter doors for van access and additional yard space reflecting local need
- information provided indicates the option for mezzanine floors to accommodate additional upper floor office space and opportunity to sub-divide the two larger units proposed although the proposed internal layout may need to be reviewed to accommodate this
- noted that delivery of the scheme is proposed in two phases - as Phase 1 predominantly serves the needs of identified users, including the applicant's business, further details of the anticipated delivery programme for Phase 2 should be sought
- from an economic development perspective, subject to the comments above, the application is supported.

#### Designing Out Crime Officer (Derbyshire Constabulary)

- 5.13 - note that there are no boundaries detailed for the site other than soft landscaping
- appreciating the setting, and aspect of adjacent commercial buildings, understand that this may not have been considered, but as the site will be screened from wider view by boundary hedging, a perimeter fence and gating to secure the site when unoccupied would be a benefit from the perspective of reducing crime
  - also note that where bin stores are allocated, they are very close to building elevations and believe that a separation distance of ideally 5m, but no less than 3m, is seen as adequate to guard against the risk of bin store fires spreading to main buildings.

#### Environmental Health (Derbyshire Dales District Council)

- 5.14 - request a condition that a Phase II assessment is submitted as per the recommendations of the Phase I study, including gas monitoring followed by a validation report.

## **6. REPRESENTATIONS RECEIVED**

6.1 None.

## **7. OFFICER APPRAISAL**

### Background

- 7.1 The planning application is being re-presented to the Planning Committee further to the decision of Members, at the 8<sup>th</sup> October 2019 meeting, following a site visit, to defer determination of the application pending further consideration of drainage and contamination matters. The applicant has now provided further information and further consultation has been undertaken. In addition, the applicant has provided information to allow the District Council, with the aid of Derbyshire Wildlife Trust, to present a shadow Appropriate Assessment to Natural England to assess the potential ecological impacts of the development on the Bage Mine Special Area of Conservation. These matters, are reflected upon below along with the matters previously considered by the Committee.

### Principle of Development

- 7.2 The principle of development has been established with the site being allocated for employment development under Policy EC2(h) of the Adopted Derbyshire Dales Local Plan (2017). The matters below relate to detailed proposals and the impact of the development on the area. In this regard, an assessment has to be made as to whether any harm caused to the open countryside and specific area designations, such as the Derwent Valley Mills World Heritage Site Buffer Zone, the Special Area of Conservation, Gang Mine SSSI and RIGS, and the Local Wildlife Site designations is outweighed by the public benefit of the proposal.

## Impact on the Character and Appearance of the Area and Derwent Valley Mills World Heritage Site Buffer Zone

- 7.3 The site forms part of World Heritage Site's (WHS) arrested rural landscape setting as a relatively unaltered green field within what is largely open countryside. In this area, there are many historic built features such as the Cromford and High Peak railway, lime kilns, field barns, etc. which contribute to the immediate setting of the WHS. The Derwent Valley Mills World Heritage Panel raise concern with regard to the impact this prominent site will have within this environment. However, as the Panel note, previous development has been allowed in the form of modern industrial units on land adjacent to the proposed development site. The Panel are of the view that any further development would have a harmful negative impact on the setting of the WHS and subsequently its outstanding universal value (OUV).
- 7.4 The first point for consideration is the proximity of the existing industrial estate and that this is one of the sites envisaged and allocated for commercial development adjacent to that site. It is therefore considered that it is the form, scale and design of the specific development scheme that should be appraised with regard to the impact of the development on the outstanding universal value of the WHS. During the period where the application was deferred, the applicant has also undertaken a thorough study of the ground levels and subsurface. In this regard, it has been identified that there will need to be some changes to the levels upon which the buildings are proposed to be set. This raises the westerly building (Unit 3) by 500mm but lowers the adjacent building (Unit 2) by 500mm. Unit 1, to the rear of the site, is proposed to be raised by 500mm. Units 4 and 5, to the east of the site, are proposed to be raised by 700mm. To address the raising of Units 2-5, it is advised that the boundary hedge to Porter Lane will be retained at a minimum height of around 4m under its management, to assist in softening the appearance of all buildings in the landscape.
- 7.5 The buildings are proposed to reflect upon the scale and appearance of the existing commercial site. However, rather than using the green cladding with yellow detail, and the silver cladding with blue detail, they propose the use of materials of a subdued, dark grey colour. The use of stone for the plinths will elevate the buildings more than those neighbouring units and the use of timber facings on parts of the buildings will serve to visually integrate the Phase I buildings with the complex at Mount Cook. The development will therefore present a transition from the utilitarian, metal panelled buildings currently in situ, and as proposed in Phase II of the development, up the slope to Phase I and beyond to the 'softer' face of development at Mount Cook.
- 7.6 As well as built form, hard landscaping in the form of retaining walls, accesses, parking and manoeuvring spaces, and storage areas will step up the site and, even with the proposed excavation of the sloping ground and the introduction of soft landscaping, this will be apparent and will cause harm to the character and appearance of the open countryside.
- 7.7 Given the above, there will be a negative impact on the open countryside and the WHS. However, this impact is on the Buffer Zone of the WHS and the development site is not apparent in views from the WHS itself. It is the view of Officers that the harm must be considered as less than substantial harm to the heritage asset as it will not in itself obliterate a heritage asset but will, moreover, have an impact upon it. In this respect, development can cause an element of harm where that harm is outweighed by public benefits, and securing its optimum viable use, as set out in Paragraph 196 of the National Planning Policy Framework.
- 7.8 In this regard, the site is allocated for employment development in the Adopted Local Plan (2017) and this is a significant, material consideration. It is considered that the development reflects upon the type of buildings that have been approved previously at the adjacent commercial sites and Mount Cook and that in their modernity of design and use of materials provide a transition between the two places.



- 7.9 Whilst the development will cause harm to the setting of the WHS, this has to be balanced with the need to provide for adequate employment opportunities to serve and expand the economic base of the District. Whilst there will be harm caused by the development, this has been designed to integrate with the development which exists and that which is proposed in this locality.
- 7.10 It should be noted that the applicant seeks to develop the site in two phases. Phase I is proposed to provide Units 1-3 which are set away from the existing development; this would not normally be an appropriate manner in which to extend the existing commercial area. However, Phase I is proposed to provide for units to serve other businesses and the applicant intends to relocate from his existing premises to Phase II once income has been derived from those initial units. It is expected that all the regrading of the land will be undertaken, and the utilities provided as part of Phase I across the whole site, as the access has to be provided once the land has been regraded.
- 7.11 It is expected that for a period of time while Phase I is being developed that the Phase II site would provide a storage area for the applicant's plant and equipment and an area for the storage of the necessary materials, contractors parking, facilities, etc. required during the construction process. Once the Phase I units are occupied, it is likely that Phase II will commence within a reasonable period of time thereafter. Officers would monitor this and, if Phase II were not to materialise, it would be appropriate to require the applicant to cease usage of the Phase II site for the storage of his plant and equipment until such time as the site was developed through. To this end, it is considered that once works commence, that there will be a reasonable likelihood that the site will be fully developed out within a reasonable time period.

Impact on Wildlife, the Gang Mine Special Area of Conservation, the Site of Special Scientific Interest and the Dark Lane Spoil Heaps South Local Wildlife Site

- 7.12 Natural England initially objected to the application as no assessment has been provided of the potential impacts that the proposal will have on the Gang Mine Special Area of Conservation (SAC) which is a site of European significance and which is also a Site of Special scientific Interest (SSSI). They initially advised that there was insufficient information for the Local Planning Authority to undertake a Habitats Regulation Assessment of the proposed development. To this end, Natural England advised obtaining an appropriate Ecological Assessment of the SAC which is approximately 10m from the proposed construction site. As a result, the site could be impacted upon through air quality impacts such as dust and potential water quality effects from construction activities.
- 7.13 However, this concern has been reviewed given that no in principle objections were raised with respect to the site adjacent to the existing industrial estate which is itself being currently considered for outline planning permission. To this end, Natural England requested a condition be attached to seek to ensure appropriate measures are in place during the construction of the development to ensure no harm is caused to the SAC/SSSI. Nevertheless, it was apparent that an Appropriate Assessment had to be submitted to Natural England as to the appropriateness of the site for development given its proximity to the SAC; this had not been undertaken at the point of site allocation in what is now the Adopted Local Plan (2017). As advised, the applicant's ecologist prepared the report for scrutiny by DWT and this was submitted to Natural England as the Local Planning Authority's shadow Appropriate Assessment.
- 7.14 Natural England has considered the shadow Appropriate Assessment and has advised that the Local Planning Authority is now able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question and that they agree with the assessment conclusions, providing that all mitigation measures are appropriately secured in

any permission given. Therefore, should planning permission be granted, a condition will be required regarding a Construction Management Plan.

- 7.15 Derbyshire Wildlife Trust considered the initial proposals and advised that they would impact upon the Dark Lane Spoil Heaps South Local Wildlife Site. The field to the north of the application site supports a mosaic of lead spoil vegetation and species rich calcareous grassland with areas of rough neutral grassland and taller herbaceous vegetation stands. The areas of lead spoil are characterised by patches of spring sandwort with wild thyme, sheep's sorrel and alpine penny-cress. The more established calcareous grasslands are composed of red and sheep's fescue, quaking grass, false oat-grass and occasional crested hair grass. There is a diverse array of herbaceous plant species including small scabious, fairy flax, lady's bedstraw, common knapweed, limestone bedstraw, common rock-rose, rough hawkbit, smooth hawk's-beard and oxeye daisy. The site supports several insects of note including the UK BAP priority butterfly species wall and dingy skipper (both species of principal importance under S41 of the NERC Act 2006). The locally rare spined mason bee (*Osmia spinulosa*) which is at the northern extent of its current range in Derbyshire is also recorded from the site.
- 7.16 On the basis of these concerns, Officers negotiated amendments to the proposals to set the proposed northern boundary hedge to the site at the edge of the development and not adjacent to the public footpath which crosses the LWS outside of the development site; this will retain more of the meadow area and LWS around the footpath. Officers consider that the applicant has proposed appropriate measures to address the concerns raised and yet to allow for reasonable development of the site to come forward to meet the strategic employment needs of the District.

#### Landscaping

- 7.17 The applicant has sought to mitigate the impact of the development in its surroundings and proposes to introduce landscaping on the boundary of the site and within it to seek to soften the impact of the development. However, the planting proposals initially submitted did not specifically reflect the local character of the natural existing vegetation of the surrounding area. This area is dominated by hawthorn as trees and hedgerows and as a grazed SSSI/nature reserve with abundant wild flowering herbs typical of limestone upland and former mining sites.
- 7.18 To this end, low level planting should be in the form of broad swathes of rough grass areas running through the site, containing appropriate species of wild flowering herbs typical of unimproved calcareous grassland. The grass areas, all of which should contain locally occurring wild flowering herbs, would comprise species currently found at the site to recreate areas of natural meadow. Inspiration may be drawn from the flora present in the adjacent nature reserve (Dark Lane Spoil Heaps South) and SSSI (Gang Mine ideally, the grass areas should be protected during development so that they are not disturbed and thus the naturally occurring flora (and fauna) assemblage is retained.
- 7.19 Therefore, it is considered that a current species make-up will need to be determined by a suitably qualified/experienced plant ecologist to inform a planting scheme and that this be a requirement of a condition on any grant of planning permission. Topsoil from the site should be retained and used in the landscaped areas because of its likely content of appropriate seeds for the site conditions and particular characteristics appropriate to the location and its historical use as a lead mine.

#### Impact on Highway Safety

- 7.20 The Local Highway Authority advised that the development is acceptable in principle subject to amendments to the parking arrangements and the provision of a footpath along Porter Lane to the bus stop. These have been provided on the amended drawings and the Local Highway Authority has advised that the proposals are now acceptable subject to conditions

with respect to access for construction vehicles, wheel cleaning facilities, the provision of a public footpath along Porter Lane, visibility splays and car parking space provision. In addition, Officers consider it necessary for permitted development rights to be removed for the insertion of first floors/mezzanines as this will have potential implications on the adequacy of the provision of car parking facilities and would need to be assessed through further planning applications.

#### Impact on Public Rights of Way

- 7.21 Peak and Northern Footpaths Society, and the Derbyshire Group of Ramblers, have raised no objection to the proposals in the context of public footpaths which run to the north and west of the application site. The initial proposal to use planting to screen the view of the site from development were considered welcome. However, given that Derbyshire Wildlife Trust would prefer to see the LWS retained as far as possible, it is considered reasonable to relocate the proposed hawthorn hedge towards the buildings. Whilst this would not screen the buildings entirely, it would serve to screen parts of them, also taking account of the levels difference, and it would screen some of the parking and manoeuvring areas. It would allow for the footpath to also cross through the 'meadow' rather than appear as a path at the edge of it. It also has to be appreciated that, at this point on the footpath, you are either starting to leave, or enter, an existing industrial estate. To this end, this proposal is considered a reasonable compromise in safeguarding the alignment and amenity of the footpath and yet allowing for the LWS to be retained as much as possible.

#### Site Contamination

- 7.22 The Environment Agency has considered the proposals. It is advised that the previous use of the proposed development site as a lead mine presents a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is within source protection zone 1 (Meerbrook Sough) and is located upon a principal aquifer associated with the Eyam Limestone.
- 7.23 The applicant's Phase 1 Desk Study demonstrates that it will be possible to manage the risks posed to controlled waters by this development. However, the Environment Agency has advised that further information will be required before built development is undertaken. Given the extent of information submitted, the Environment Agency consider that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission.
- 7.24 In light of the above, the Environment Agency has advised that the proposed development will be acceptable if planning conditions are included requiring the submission of a remediation strategy. The District Council's Environmental Health Section has also assessed the Phase I site contamination survey submitted with the planning application and advise, on the basis of this submission, that a condition be attached to any grant of planning permission that a Phase II assessment is submitted as per the recommendations of the Phase I study, including gas monitoring followed by a validation report.

#### Land Drainage

- 7.25 The Lead Local Flood Authority (LLFA) have noted that the proposed surface water discharge destination is to infiltration. The applicant has considered a range of SuDS features (permeable paving, swales, filter drains and rain gardens) and incorporation of any proposed SuDS features will need to be finalised at the detailed design stage. As highlighted in the submitted Flood Risk Assessment, Severn Trent Water (STW) have previously advised that the existing sewers in the area, and the treatment works, are running at full capacity and that disposal of surface water runoff to the sewer system should be a last resort. Any connection to the public sewer would therefore need to be agreed with STW. To this end, the LLFA advised of the need to attach conditions to any grant of planning permission. However, it was partly these concerns which led to the deferral of the decision

on the planning application by the Planning Committee.

- 7.26 The applicant has therefore provided further information. This details that the surface water drainage will be by infiltration as will be the treated water from foul drainage. The Environment Agency has advised that the measures proposed are acceptable subject to conditions. The Local Lead Flood Authority has been consulted on the revisions but at the time of preparing the Committee Report had not responded; their comments will be reported to the Committee meeting.

#### Climate Change

- 7.27 Policy PD7 places a requirement on the applicant to detail how matters of climate change have been addressed. To this end, the applicant has not clarified how this may be addressed. Four of the units have south facing roofslopes and these could benefit from the provision of solar panels. The timber facings are generally a sustainable facing material. However, given the limited information provided, it is considered reasonable to attach a condition to any grant of planning permission requiring details of how the development will seek to meet the challenges of climate change in its build and use of technology.

#### Impact on Archaeology

- 7.28 The Dovegang Mine was identified in the 2004 *Inventory of Regionally and Nationally Important Lead Mining Sites in the Peak District* (produced by the Peak District National Park Authority). The site was identified as of 'high priority' in relation to preservation of hillocks and the presence of documented early mining evidence. This establishes the site as a whole as of regional or national importance, although the contribution of the current proposal site to this significance is not yet established.
- 7.29 The site is clearly therefore an 'undesigned heritage asset' as defined in Chapter 16 of the NPPF and at the higher end of importance within the class of undesigned assets. Paragraph 189 of the NPPF therefore requires that the applicant submits sufficient information to allow the significance of the heritage asset to be understood and the impact of the proposed development thereon established. Therefore, there were initial concerns raised by the County Archaeologist with regard to no heritage information being submitted with the application.
- 7.30 The applicant submitted photographic evidence of when the site was previous stripped and lead mine shafts were capped in 1994 and when material from the Black Rocks Business Park was tipped on the site in 2004. On the basis of this, the County Archaeologist advises that there appears to be no remaining archaeological potential with regard to above-ground earthworks or to shaft tops/ginging, etc and associated mining structures and therefore no further archaeological information is required.

#### Conclusion

- 7.31 It is appreciated that the site is on the outer extent of the Derwent Valley Mills World Heritage Site Buffer Zone but this must be read contextually with existing development at the existing industrial estate and Mount Cook and that the site is allocated for employment development which will also be read contextually with the allocated site for employment development to the north of the existing industrial estate which is currently being considered for outline planning permission. To this end, there will be some harm to the heritage asset but it is considered by Officers that the harm caused is less than substantial and the development, and the employment potential, as a public benefit, in this case, outweighs that harm.
- 7.32 It is appreciated that the development has the potential to cause harm, particularly during construction, to the European designated Special Area for Conservation and the SSSI at Gang Mine. However, it is considered that with appropriate measures, secured through planning conditions, such concerns can be mitigated and Natural England has withdrawn its



initial objection on this basis. The shadow Appropriate Assessment has also been approved by Natural England.

7.33 The proposals have been amended during the consideration of the application to reasonably address, in the view of Officers, the concerns initially raised by Derbyshire Wildlife Trust with respect to the impact of on the Local Wildlife Site. In addition, the reasons for deferral of the scheme in relation to land drainage and contamination have now been addressed to the satisfaction of statutory consultees. Measures could be introduced to make the development more responsive to concern of climate change and it is considered that details of this can be provided as a condition of any grant of planning permission.

7.34 Officers consider that the applicant has submitted appropriate proposals to address the concerns raised and yet to allow for reasonable development of the site to come forward to meet the strategic employment needs of the District. Given the above, it is recommended that planning permission be granted subject to appropriate conditions to secure the satisfactory appearance of the development and to take into account the comments of statutory consultees.

## 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 Amended Drawing Nos. 2329-001A, 007C and 008C received on 27<sup>th</sup> September 2019 and 2329-005K and 006F received on 11<sup>th</sup> June 2020, the Shadow Habitat Regulations Assessment (Ramm Sanderson) received on 16<sup>th</sup> April 2020 and the Contamination Assessment (GeoDyne Ltd) and the Drainage Strategy (BSP Consulting) received on 11<sup>th</sup> June 2020 except insofar as may otherwise be required by other conditions to which this permission is subject.

Reason:

To define the permission for the avoidance of doubt.

3. If during development contamination that is not identified is found to be present at the site, no further development shall be carried out until a remediation strategy detailing how the contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority and the remediation strategy shall thereafter be implemented as approved.

Reason:

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework and to comply with Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).

4. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework and to comply with Policies PD8 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

5. Prior to the commencement of development a Phase II assessment as per the recommendations of the Phase I study, including gas monitoring followed by a validation report, shall be submitted to and approved in writing by the Local Planning Authority. This shall include:
  - (i) a Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites ' Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment;
  - (ii) a remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
  - (iii) if during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.
  - (iv) a validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to [first occupation of the development/the development being brought into use]. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
6. Before any of the buildings are first brought into use, schemes shall be submitted to and agreed in writing by the Local Planning Authority that specifies the provisions that will be implemented for the control of noise and light emanating from the site. The noise and lighting mitigation schemes shall be maintained for the life of the approved development and shall not be altered without the prior written approval of the Local Planning Authority.

Reason:

To safeguard the amenity of the locality and to comply with Policies S1, S4, PD1 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

7. Prior to any construction works taking place on the site, a Construction Management Plan (CMP) shall be produced to reduce the potential for accidental transgression during construction onto the Special Area of Conservation (SAC), and areas of the Local Wildlife Site (LWS) outside the site boundary. This will include details of boundary protection including temporary fencing which will delineate boundaries and be erected prior to the start of and throughout the duration of the construction works. Clear 'keep out' signs shall be placed along the fencing to further reduce the potential for machinery to enter these areas. The CMP should also provide detail of appropriate mitigation measures to consider potential hydrological impacts.

Reason:

To ensure there are no detrimental impacts on the nearby Gang Mine Special Area of Conservation and Site of Special Scientific Interest and the Dark Lane Spoil Heaps South Local Wildlife Site to comply with Policies S1, PD3 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

8. With regard to dust management, construction plans and building specifications are required for detailed assessment. As per the shadow Appropriate Assessment, a full risk assessment to be conducted by a competent person, with full membership of IAQM and experience of assessing dust impacts for a minimum of 10 diverse projects, including some complex multi-phase projects and similar projects to that being assessed. The completed risk assessment shall be used to inform the contents a Dust Management Plan (DMP), which shall be approved by the Local Planning Authority and an ecologist. The suggested measures for inclusion in the DMP shall include the following:
- o regular site inspections to monitor compliance with the DMP;
  - o an increase the frequency of site inspections by the person accountable for air quality and dust issues on site when activities with a high potential to produce dust are being carried out and during prolonged dry or windy conditions;
  - o the erection of solid screens or barriers around dusty activities or the site boundary that are at least as high as any stockpiles on site;
  - o site fencing, barriers and scaffolding are kept clean;
  - o cover or fence stockpiles are provided to prevent wind whipping;
  - o to only use cutting, grinding or sawing equipment fitted or in conjunction with suitable dust suppression techniques, such as water sprays or local extraction
  - o the use of enclosed chutes and conveyors and covered skips; and
  - o ensuring that equipment is readily available on site to clean any dry spillages.

Once the dust risk assessment and DMP are completed, a revised Appropriate Assessment of dust impacts should be conducted to provide an addendum to the shadow assessment.

Reason:

To ensure there are no detrimental impacts on the nearby Gang Mine Special Area of Conservation and Site of Special Scientific Interest and the Dark Lane Spoil Heaps South Local Wildlife Site to comply with Policies S1, PD3 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

9. The development hereby approved shall be carried out fully in accordance with the recommendations set out in the Great Crested Newt Survey, the Reptile Survey and the Preliminary Ecological Appraisal received on 19<sup>th</sup> June 2019 and the Phase 1 Habitat Survey received on 27<sup>th</sup> August 2019 unless as required by other conditions to which this permission is subject and/or unless otherwise agreed in writing by the Local Authority.

Reason:

To ensure there are no detrimental impacts on protected species to comply with Policies S1 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

10. Before the buildings are erected, details of all facing materials and windows and doors (to include their depth of recess) to the buildings shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be provided in accordance with the approved details.

Reason:

To ensure the satisfactory appearance of the development to comply with Policies S1, S4, S7, PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

11. 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); and
  - m) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

Reason:

To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features in accordance with Policies S1, S4, S7, PD1, PD2 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

12. 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 buildings 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 Policies S1, S4, S7, PD1, PD2 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

13. A schedule of landscape maintenance shall be submitted to and approved in writing by the Local Planning Authority prior to first use of any of the buildings hereby approved. The schedule shall include details of the arrangements for its implementation. Landscape maintenance shall be carried out in accordance with the approved schedule.

Reason:

To ensure proper maintenance of the landscaped areas in the interests of amenity in accordance with Policies S1, S4, S7, PD1, PD2 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

14. Before the buildings are erected, details of the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be carried out in accordance with the agreed details.

Reason:

To ensure the satisfactory development of the site in accordance with Policies S1, S4, S7, PD1, PD2 and PD3 of the Adopted Derbyshire Dales Local Plan (2017).

15. No development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason:

In the interests of highway safety.

16. Before any other operations are commenced, excluding construction of the temporary access referred to in Condition 15 above, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason:

In the interests of highway safety.

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

Reason:

In the interests of highway safety.

18. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme of highway improvement works for the provision of footway together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason:

In the interests of highway safety.

19. Prior to the proposal being taken into use, the new vehicular and pedestrian access shall be formed to Porter Lane in accordance with application drawing number 2329-005K and provided with visibility sightlines extending from a point 2.4m metres from the carriageway edge, measured along the centreline of the access, for a distance of 55m to the east and 71m to the west measured along the nearside carriageway edge. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) [above ground level in case of junction] relative to adjoining nearside carriageway channel level.

Reason:

In the interests of highway safety.

20. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of visitors, staff, customers and service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason:

In the interests of highway safety and to ensure the provision of adequate parking facilities to comply with Policy HC21 of the Adopted Derbyshire Dales Local Plan (2017).

21. 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), no mezzanine or other form of internal floor to create a first floor level shall be constructed in the development hereby permitted.

Reason:

To ensure the provision of adequate parking facilities to comply with Policy HC21 of the Adopted Derbyshire Dales Local Plan (2017).

22. Prior to any building being erected on the site, details of measures to be undertaken to address the carbon footprint of the development and to address climate change shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in full accordance with the approved details.

Reason:

To meet the objectives of addressing climate change to comply with Policies S1 and PD7 the Adopted Derbyshire Dales Local Plan (2017).

## **NOTES TO APPLICANT:**

1. The Lead Local Flood Authority advises the following:
  - A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).
- C. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
- E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
- F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
- G. Surface water drainage plans should include the following:
- Rainwater pipes, gullies and drainage channels including cover levels.
  - Inspection chambers, manholes and silt traps including cover and invert levels.
  - Pipe sizes, pipe materials, gradients and flow directions and pipe numbers.
  - Soakaways, including size and material.
  - Typical inspection chamber / soakaway / silt trap and SW attenuation details.
  - Site ground levels and finished floor levels.
- H. On Site Surface Water Management;
- The site is required to accommodate rainfall volumes up to 1 in 100 year return period (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
  - The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 30% Climate Change rainfall volumes will be controlled and accommodated, also incorporating a sensitivity test to 40% Climate change. In addition an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
  - Production of a plan showing above ground flood pathways (where relevant) for events in excess of 1 in 100 year rainfall, to ensure exceedance routes can be safety managed.
  - A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc).

### **Peak Flow Control**



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

### **Volume Control**

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

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

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
  - Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
  - Guidance on flood pathways can be found in BS EN 752.
  - The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces – houses, gardens, roads, and other open space) that is within the area served by the drainage network whatever size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.
- I. If infiltration systems are to be used for surface water disposal, the following information must be provided:
- Ground percolation tests to BRE 365.

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

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

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

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

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

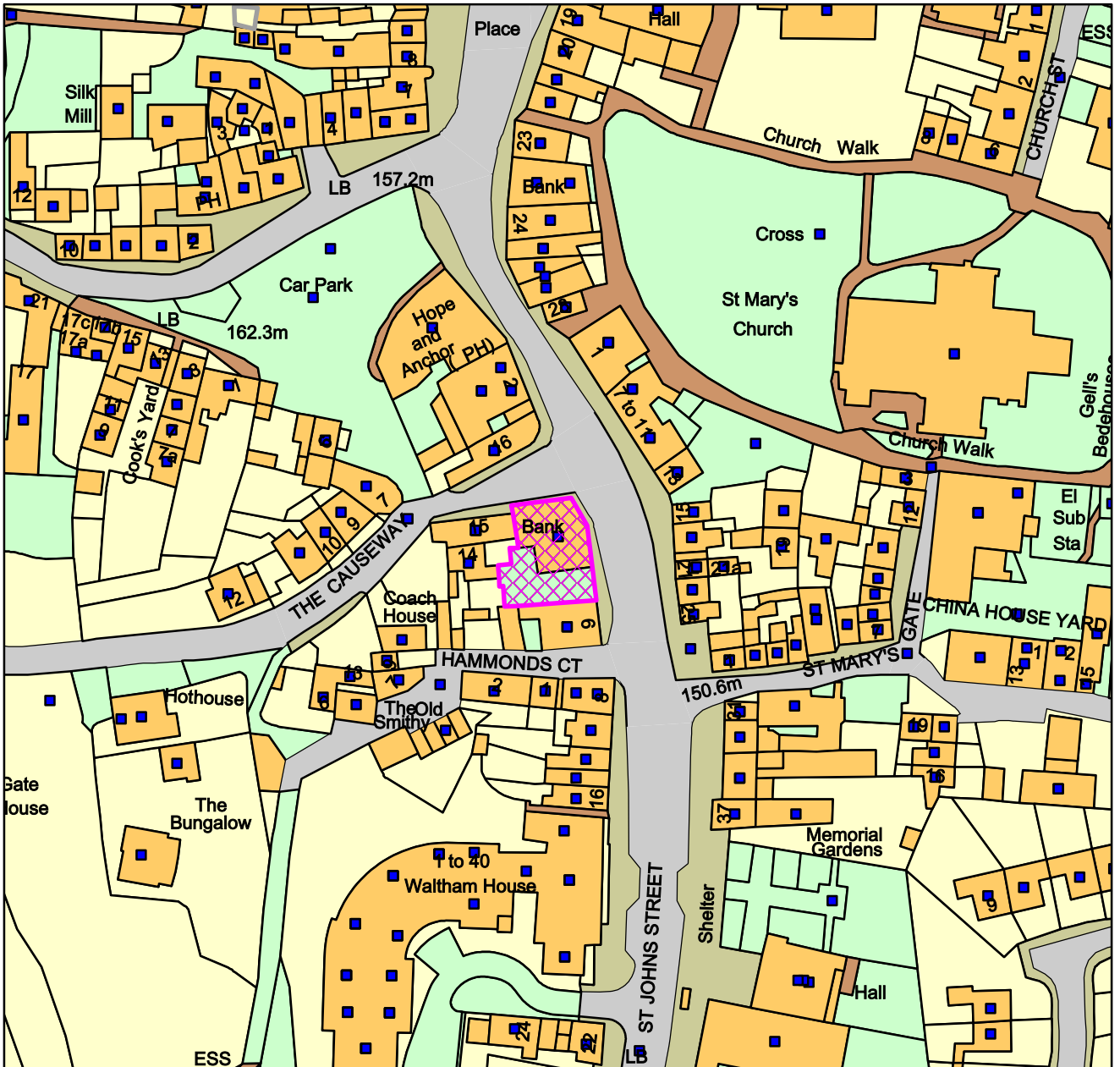
2. The County Council, as Local Highway Authority, has advised the following:

- A. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
  - B. The Highway Authority recommends that the first 10m 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.
  - C. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
  - D. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
  - E. The application site is affected by a Public Right of Way (Footpath/Bridleway numbers 12 and 15 Cromford and claimed Bridleway 36 on the Derbyshire Definitive Map). These routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533262.
3. Natural England advises that, should the developer wish to discuss with them the detail of measures to mitigate the effects described above, it is recommended that advice is sought through their Discretionary Advice Service.
  4. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £116 per request. The fee must be paid when the request is made and cannot be required retrospectively.
  5. The Local Planning Authority prior to the submission of the application, and during its consideration, engaged in a positive and proactive dialogue with the applicant which resulted in a scheme that overcame initial concerns relating to the layout of the site, ecology matters, archaeological matters, highway matters and drainage matters.
  6. This decision notice relates to the following documents:  
 Amended Drawing Nos. 2329-001A, 007C and 008C received on 27<sup>th</sup> September 2019  
 Amended Drawing Nos. 2329-005K and 006F received on 11<sup>th</sup> June 2020  
 Planning, Design and Access Statement received on 19<sup>th</sup> June 2019  
 Preliminary Ecological Appraisal (Absolute Ecology) received on 19<sup>th</sup> June 2019

Great Crested Newt Survey (Absolute Ecology) received on 19<sup>th</sup> June 2019  
Reptile Survey (Absolute Ecology) received on 19<sup>th</sup> June 2019  
Site Access Appraisal (Bancroft Consulting) received on 19<sup>th</sup> June 2019  
Flood Risk Assessment (GeoDyne Ltd) received on 19<sup>th</sup> June 2019  
Additional information received on 2<sup>nd</sup> August 2019 and 27<sup>th</sup> August 2019  
Shadow Habitat Regulations Assessment (Ramm Sanderson) received on 16<sup>th</sup> April  
2020  
Additional information regarding hedge maintenance received on 9<sup>th</sup> June 2020  
Drainage Strategy (BSP Consulting) received on 11<sup>th</sup> June 2020  
Contamination Assessment (GeoDyne Ltd.) received on 11<sup>th</sup> June 2020.

20/00255/FUL

4 St. John Street, Wirksworth



Derbyshire Dales DC

1:1,250

Date: 09/07/2020

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

<b>APPLICATION NUMBER</b>		20/00255/FUL	
<b>SITE ADDRESS:</b>		4 St John Street, Wirksworth	
<b>DESCRIPTION OF DEVELOPMENT</b>		Change of use and conversion from former bank (Use Class A2) to 8 no. apartments with a new rear extension	
<b>CASE OFFICER</b>	Sarah Arbon	<b>APPLICANT</b>	Mr Milner
<b>PARISH/TOWN</b>	Wirksworth	<b>AGENT</b>	Mr I Catherall
<b>WARD MEMBER(S)</b>	Cllr P Slack Cllr M Ratcliffe Cllr E McDonagh	<b>DETERMINATION TARGET</b>	6 <sup>th</sup> May 2020
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Level of representation	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>- Principle of Development</li> <li>- Loss of Existing Community Facilities</li> <li>- Residential Amenity</li> <li>- Impact Upon Heritage Assets</li> <li>- Highway Safety</li> </ul>

<b>RECOMMENDATION</b>
Approval

## 1.0 THE SITE AND SURROUNDINGS

- 1.1 The premises is a Grade II Listed Building within Wirksworth Conservation Area, occupying a prominent site on the main route through the centre. The site lies within the settlement boundary of Wirksworth.
- 1.2 The former bank premises was designated on the statutory list in January 1973 and the list entry describes the building as follows:  
*“Mid C19. Stucco. The main block is of 3 storeys with a 2-storeyed 1 window wing on the left-hand side; 3 sash windows, plus 1 blocked to splayed return on right-hand side, all in moulded architraves; doorway on splayed return has moulded architrave with segmental head and fanlight; bold moulded eaves; part tiles and part slate. 4- windowed returned side to The Causeway. Premises occupied by Lloyd’s Bank, Nos 6 to 14 (even) and Wirksworth Maternity Home form a group.”*
- 1.3 The current building dates from c.1780 and was formerly the townhouse of the Beresford family of Fenny Bentley. It became a bank in the later 18<sup>th</sup> century owned by a John Toplis. In the early 19<sup>th</sup> century the bank ownership had a connection with Richard Arkwright Jr. With its history and interest it is both an important & significant building in local banking and former townhouse in the centre of Wirksworth. The long history of the ground floor being used as a banking operation ceased in September 2017. The upper two floors of the building were converted into flats, probably in the 1970s/80s and are now vacant.
- 1.4 There is a car parking area to the south of the building accessed through an archway and enclosed by the Grade II Listed 9 St John Street to the south which is a Solicitors office. Both 15 and 15A The Causeway are Grade II Listed. A 2.6m high wall encloses the rear courtyard of 15A The Causeway to the north west and a 3m high outbuilding and garden wall bounds the car park to the west. The rear elevations of 15 A and 15 The Causeway are to the north west and have main room windows overlooking at small courtyard and the main access to 15 A is via a gennel adjacent to the side walls of 4 St John Street and 15 The Causeway. The rear garden area of 15A is over the wall to the west.

## 2.0 DETAILS OF THE APPLICATION

- 2.1 Planning permission is sought for a change of use of this former bank to eight apartments. The proposal is to convert the ground floor into two apartments and a self-contained two-storey dwelling. A two-storey extension is proposed for the southern (courtyard) elevation. The first floor is to be converted into three apartments and the second floor into two apartments. As part of the conversion a new communal staircase serving all of the apartments is to be formed in the centre of the building. Four 1 bedroom, three 2-bedroom apartments and one 1-bedroom two storey dwelling are proposed. The existing strong room would be demolished as part of the proposal. Bin and cycle storage is proposed adjacent to the existing 3m wall to the west.

## 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan (2017)
  - S2: Settlement Hierarchy
  - S3: Development within Defined Settlement Boundaries
  - PD1: Design and Place Making
  - PD2: Protecting the Historic Environment
  - HC15: Community Facilities and Services
  - HC19: Accessibility and Transport



## EC6: Town and Local Centres

### 2. Wirksworth Neighbourhood Plan (2015)

Policy NP1: Setting and shape of the settlement

Policy NP2: Quality and character of development within the settlement

Policy NP4: Size of new homes and space standards

Policy NP5: Principal Residence Homes

Policy NP6: Quality of residential development

### 3. National Planning Policy Framework

National Planning Practice Guidance

## 4.0 RELEVANT PLANNING HISTORY:

17/00723/LBALT	Removal of ATM and external signage	PERC	11/09/2017
18/01412/FUL	Conversion from mixed use bank (A2 Use) and residential to 1 no. dwelling house, 5 no. self-contained flats and mixed retail (A1) financial and professional services (A2) Use on ground floor	WDN	11/02/2019
18/01413/LBALT	Internal and external alterations	WDN	11/02/2019
13/00558/ADV	Display of 2 no. non-illuminated fascia signs and 2 no. non-illuminated hanging signs	PERC	27/09/2013
13/00560/LBALT	Alterations to listed building - Display of 2 no. non-illuminated fascia signs, 2 no. non-illuminated hanging signs and panel signs	PERC	27/09/2013
1093/0714	Alterations to listed building	A	09/11/1993
1093/0713	Change of use of part of first floor to residential	A	08/11/1993
1092/0832	Installation of through-the-wall cash dispensing machine	A	03/12/1992
1092/0784	Alterations to listed building	A	11/11/1992
0391/0195	Alterations to listed building	A	11/04/1991

## 5.0 CONSULTATION RESPONSES

### Wirksworth Town Council

- 5.1 No Objection. The council notes that there appears to be no reference to the Neighbourhood Plan within the application. There are serious concerns that 2 parking spaces is insufficient given the proposed number of dwellings. The proposal would increase the demand for parking within the town centre, further exacerbating an issue which the town council and community groups continue to see as a significant inhibitor to the ongoing prosperity of the town. They would therefore ask that the developer be asked to review the proposal and take measures to mitigate this issue. The Town Council would

wish to see the commercial space remain part of the high street offering and would welcome any suitable application that supports this. Wirksworth Town Council has declared a Climate Emergency and therefore any development or change should seek to reduce the carbon footprint.

#### Derbyshire County Council (Highways)

- 5.2 No objections in view of the previous use, existing residential use, town centre location and on-street parking controls.

#### Design and Conservation Officer (Derbyshire Dales)

- 5.3 The self-contained dwelling with the retention of the historic staircase and staircase hall is considered acceptable. In relation to the proposed extension, historic maps and physical evidence do confirm the former presence of a part of the building in this location, however, the height is not known. The proposed extension follows a similar footprint to the former projection and is considered acceptable and would not be harmful to the character and appearance of the listed building. There is evidence that an internal staircase was removed in the 20<sup>th</sup> Century in a similar location to the proposed central staircase and subject to details this is considered acceptable. Within Apartment 1 the smaller strong room would be opened up into a kitchen and this is a consequence of the general intensity of the residential accommodation being imposed into the building's interior. Within Apartments 4 and 7 the existing large North west room is to be divided and in this regard their historic / spatial qualities would be severely diminished and as such are considered harmful to the character and appearance of this part of the listed building. Conditions to cover specific details in relation to flues, grilles, vents, pipework, alterations and repair of all windows and doors, render including colour and roofs and chimney stacks are recommended.

#### Environmental Health (Derbyshire Dales)

- 5.4 No objections.

## **6.0 REPRESENTATIONS RECEIVED**

- 6.1 A total of 9 representations have been received. A summary of the representations is outlined below:

- The proposed extension would overshadow and overlook properties 15 and 15A Causeway.
- The cycle store and bin storage area would cause a noise disturbance.
- Sufficient car parking has not been provided as with 8 residences there is a potential for 16 cars and existing on street parking is limited and controlled by permits.
- There are errors within the Transport Technical Note as some information relates to Lancashire.
- Overlooking of the rear garden and walkway at 14 The Causeway from the proposed extension.
- The existing parking restrictions require repainting.
- Lack of parking is a problem within the town with the Market Place car park often full and inhibits visitors and this proposal would increase the issue.
- The building is Grade II Listed and should be preserved and it is difficult to see that it is possible with such a large extension.
- The extension would overshadow the courtyards of the neighbouring dwellings.
- Due to the issues of parking the building should be converted to only 4 flats and a business use useful for the townspeople kept on the ground floor.

- One of the main issues for Wirksworth is the lack of parking within the town centre and this proposals would result in a loss of parking within the town centre and does not provide sufficient parking for the proposal which is not in accordance with the Wirksworth Neighbourhood Plan.
- Wirksworth's retail provision should be protected and space should be available to new traders.
- Utilising potential retail buildings within the town for residential use is not in the best interests of the community.
- The extension would be very close to the kitchen and bedroom windows of 15A The Causeway and there is a concern regarding the natural daylight coming into these windows and that the extension would seriously overshadow this property.
- The kitchen and bedroom windows are already poorly lit and the extension would reduce natural daylight further.
- The application should be considered against the Building Research Establishment (BRE) Guide 'Site Layout for Daylight and Sunlight' 2011 and a shading survey completed prior to any decision.
- The noise from 8 apartments would be significant and 15A has main room windows adjacent to the car park and cycle and bin storage area.
- Should the application go to committee, members are requested to visit 15A The Causeway to gain a better understanding of how badly the development would affect the resident.
- The proposed extension would cut off light to the French window which is the only source of light to the living room of 15 The Causeway.
- The sloping rooflight would pose a detriment to the privacy of the garden and main room windows of 15 The Causeway.
- The layout of apartment 2 means that the living room / dining room would adjoin the gennel between the properties (15 The Causeway) and noise would be amplified.
- Apartment 7 on the second floor proposes a living room adjacent to the party wall which adjoins the ceiling of 15 The Causeway's master bedroom. Bitter experience from the tenants of the existing flat means that it is known that the wall offers minimal sound insulation and sound is amplified by the construction of the floors and ceiling.
- Lack of a sufficient turning area within the car park is likely to pose a danger on the road at the access and egress.

## 7.0 OFFICER APPRAISAL

The following material planning issues are relevant to this application:

- Principle of Development
- Loss of Existing Community Facilities
- Impact on Residential Amenity
- Impact on the Significance of the Heritage Assets
- Highway Safety

### Principle of Development

- 7.1 The premises is a Grade II Listed Building within Wirksworth Conservation Area, occupying a prominent site on the main route through the centre. The site is within the town centre of Wirksworth but is not allocated as Primary Shopping Frontage. The bank use ceased in 2017 and since that time only the upper floors have been rented out for flats with access from the external staircase.
- 7.2 Within settlement boundaries Policy S3 allows development that:- is of a scale, density, layout and design that is compatible with the character, appearance and amenity of the part of the settlement in which it would be located, retains existing buildings that make a positive

contribution to the area and the proposed access and parking provision is appropriate. The building is a prominent building within the town centre and the proposal would secure its future use and avoid its deterioration further. An assessment of the impact of the conversion and extension on its character, significance and appearance is discussed in detail below.

- 7.3 Policy S7 seeks to promote the sustainable growth of Wirksworth whilst seeking to safeguard its important role as a historic market town serving a wide rural hinterland. Any development within the town must seek to promote and maintain the distinct identity of the settlement, maintaining and where possible enhancing the vitality and viability of Wirksworth town centre.
- 7.4 Wirksworth is identified in the Local Plan as a principal town centre, which seeks to provide a primary shopping role by providing a range and choice of shopping facilities and services to support local communities and serve the wider rural hinterland. The DDDC retail survey 2019 indicates that 65% of uses within Wirksworth fall within 'A' use categories. However notably only 7% of these uses are occupied by A2 uses and the vacancy rate in Wirksworth was 13% (above the national average of 10%). The site is within the town centre and Policy EC6 requires active town centre frontages to be maintained with appropriate town centre uses. As the premises sit outside the designated Primary Shopping Frontage changes between commercial uses would not require detailed assessment as the proposed use would still contribute significantly to the vitality and viability of the centre. In this case where a commercial use would be lost to a residential use evidence to demonstrate that the commercial use is no longer required is considered necessary. This has been provided and in two periods of marketing (discussed in detail below) retail operators were put off by the lack of active frontages at the ground floor. On this basis the marketing evidence has sufficiently demonstrated that there is no demand for town centre uses within this building.

#### Loss of existing Community Facilities

- 7.5 The premises, as a former bank, is considered to constitute a 'community facility' as protected by Policy HC15. This Policy states that development that involves the loss of a community facility will only be supported where it can be demonstrated that the existing use is no longer needed to serve the needs of the community and the existing facility is no longer financially or commercially viable as demonstrated through a robust and comprehensive marketing exercise with the facility actively marketed at a realistic price for a continuous period for at least 12 months immediately prior to the submission of an application. Policy NP11 of the Wirksworth Neighbourhood Plan identifies the building's use as a bank as a community facility and requires evidence as per Policy HC15.
- 7.6 Whilst Policy HC15 does not mention banks specifically it was requested that the applicant provide marketing evidence in this case in order to comply with the policy. Marketing from two Estate Agents was supplied. The building was marketed between October 2017 and August 2018 (10 month period) and 10 enquiries were made, two of which were from retail operators. Both enquirers were put off by the 'hard' retail frontage, with the historic nature of the building not lending itself to retail uses. The building was marketed again in September 2019 and 4 offers were made, all from developers with a view to converting the building to residential use. It is considered that given the fact the building is located on the edge of the defined retail area and the submitted marketing evidence that its 'hard' frontage with high level windows discourages retail or other town centre uses; a refusal on this basis would not be sustained at appeal. The evidence submitted is considered sufficient to comply with the aims of Policy EC6 and Policy HC15 and the conversion of the whole building to residential use is considered acceptable in principle.

## Impact on residential amenity

- 7.7 Policy PD1 requires development achieves a satisfactory relationship to adjacent development in relation to visual intrusion, overlooking, shadowing and overbearing impacts. There are two properties in close proximity to the building to the north west. 15 The Causeway is attached to 4 St John Street and is located to the rear. This property has bedroom windows and a patio door serving the lounge overlooking a shared courtyard area. No.15 is attached to No.15 A which is a cottage which has a kitchen and bedroom window above that also overlooks the shared courtyard. The only access to this property is via a passageway on The Causeway between No.15 The Causeway and 4 St John Street. The garden area of this cottage is adjacent to the 3m high boundary wall that encloses the car parking area of the proposal.
- 7.8 The proposed extension would be in close proximity to the windows of both these properties and as such the applicant was asked to remove the rooflight / window on the western elevation as it created a significant direct overlooking concern for the windows of 15 A The Causeway. An amended plan has been received that removes this window. The proposal is therefore not considered to have a significant overlooking impact on neighbouring properties as the only other window on the western elevation is on the ground floor and is obscured from view of the neighbour's windows by an existing part of the building and 2m high boundary wall.
- 7.9 A Shading Survey was also requested in order to establish the impact of the extension on the windows of 15A and 15 The Causeway. The Shading Survey considered the sunlight and shadows following the criteria of the document "Site Layout Planning for Daylight and Sunlight" (SLP) published by the Building Research Establishment in 2011. The shadows were modelled at 9am, 12noon and 3pm on 21 March (Spring equinox), 21 June (Summer Solstice) and 22 September (Autumn equinox). Winter shadows were not plotted because even very low buildings would cast long shadows and in built up areas it is common for large areas of the ground to be in shadow throughout Winter.
- 7.10 The BRE guidance suggests that for an amenity area, like a garden, to appear sunlit throughout the year, at least 50% of the garden or amenity area should receive 2 hours of sunlight on 21st March (21st March is the equinox month and is the set day for testing overshadowing in accordance with the BRE criteria). If a new development causes overshadowing of existing open areas that do not meet these criteria, and the area which can receive 2 hours of sun on 21st March reduces by more than 20% of its former value, then the loss of sunlight may be noticeable, representing an adverse impact.
- 7.11 The 3D Shadow drawings indicate that the courtyard floor is in shadow throughout the 21<sup>st</sup> March with the windows of property 15a in shadow throughout the same day. The windows of 15 enjoy sunlight towards the middle of the day for more than 2 hours. The Shadow Study indicates that with the extension in place, there is a marginal increase in the shadows cast over the roof of the lean-to outbuilding that exists within the courtyard at 9am on 21 March and 9am on the 21<sup>st</sup> June however the windows and courtyard floor remain unaffected by the presence of the extension. For the rest of the year, the shadows over the rear courtyard space to 15/15a remain unaffected. Even with the extension in place, the rear windows of no.15 will still enjoy sunlight for more than 2 hours per day on the 21<sup>st</sup> March. The windows of 15A The Causeway and the rear courtyard at present do not enjoy the 2 hours of sunlight and the survey shows that the extension would not reduce the sunlight to these rooms. The proposed extension is therefore considered to comply with the BRE criteria and would not cause significant overshadowing of these properties or the rear amenity space than already exists in accordance with Policy PD1.

## Impact on the significance of the Heritage Assets

- 7.12 Policy PD1 requires development to be high quality that respects the character, identity and context and contributes positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials and the relationship to adjacent buildings and landscape features.
- 7.13 As the building is Listed and within a Conservation Area, Policy PD2 is relevant which seeks to conserve heritage assets in a manner appropriate to their significance, taking into account the desirability of sustaining and enhancing their significance and ensuring that development proposals contribute positively to the character of the built and historic environment. It states that any proposed works should be informed by a level of historical, architectural evidence proportionate to their significance. Extensions and alterations are required to demonstrate how the proposal has taken account of design, form, scale, mass, the use of appropriate materials and detailing, siting and views away from and towards the heritage asset.
- 7.14 Policy PD2 requires proposals that affect a heritage asset and/or its setting to demonstrate how it has taken into account of design, form, scale, mass, the use of appropriate materials and detailing, siting and views away from and towards the heritage asset. The application is accompanied by a detailed Heritage Statement (HS) which assesses historic maps, the significance of the asset including its group value, its special and historic interest and includes photographs of all rooms and historic features with assessment of changes over time.
- 7.15 In relation to the self-contained two-storey dwelling, whilst a contemporary part of the original building this section of the building has its own historic staircase which is to be retained as part of the conversion and staircase hall (with access doorway) and with the blocking of two interconnecting doorways can be 'self-contained'. The internal alterations are minimal and it is considered that this is an acceptable alteration to his part of the building.
- 7.16 Historic maps and physical evidence confirm the former presence of part of the building in the location the extension is proposed. However, the height of this former part of the building is not known. The proposed extension follows a similar footprint to the former projection and is to be two-storeys in height with an asymmetrical pitched roof over and the walls rendered and painted to match the main property. A benefit of the new extension is the removal of the decaying and unsightly external metal fire escape. It is considered that, based on the evidence of a former projection in this location, and on this similar footprint that a new extension would not be harmful to the character and appearance of the listed building. The removal of the single-storey strong room (south elevation) is acceptable as a later 20<sup>th</sup> century addition. Conditions relating to the extension's roof covering, rainwater goods, window details and render type and colour should be imposed.
- 7.17 The proposed communal staircase. Based on an assessment of the existing floor plan / layout and on the elevations (particularly the southern elevation) it appears clear that probably in the 20<sup>th</sup> century the original staircase was removed. The plan-form and layout appear to suggest strongly that the former staircase would have occupied the location of the proposed new communal staircase. The proposed floor plans depict the proposed new staircase and its form, layout and configuration and is considered acceptable subject to details to be controlled by condition.
- 7.18 The proposed ground floor layout is considered to be acceptable. The bank usage has had a significant impact on historic changes to the layout and plan-form of the ground floor and whilst a partly conjectural re-construction of an original layout could be utilised the structural changes are such that the proposed layout respects, as far as possible, what

remains. The 19<sup>th</sup> century strong room, with its thick walls, is a significant part of the banks use of the building. The proposal is to utilise this room as a kitchen which (whilst retaining down stands and the cornice etc.) involves opening up two of the walls to provided physical/visible inter-connection with the layout of Apartment 1. Whilst some alterations to the strong room may be deemed acceptable the requirement to alter this small room is as a consequence of the general intensity of residential accommodation being imposed into the building interior.

- 7.19 On the first floor the proposed layout of Apartment 4 gives cause for concern as a consequence of the intensity of accommodation being incorporated into the existing plan layout to this part of the listed building. The existing large north west room, as originally conceived and which has been retained to date is to be divided almost in half with various partitions forming a lobby, bedroom and living room. It is considered that in this regard its historic/original spatial qualities would be severely diminished. The adjacent room (also to Apartment 4), with an existing chimneybreast is also heavily compromised by its partitioning/division to form a kitchen & bathroom and the formation of an opening by the side of the chimneybreast. Based on, and as a result of the divisional changes and alterations to existing/historic spatial form and qualities it is considered that the proposed alterations to form/create Apartment 4 are harmful to the character and appearance of this part of the listed building. The applicant's Heritage Consultant has reviewed this issue and considers that as the proposed room within apartment 4 is a secondary space which does not retain any significant decoration or detailing. The partition between the bedroom and living room would be reversible and the proposed archway would not be full height and would thus read as new doorway and therefore he considers the proposals would not harm the significance of the building.
- 7.20 On the Second floor layout, whilst in general terms it is considered that the proposed layout of Apartment 7 respects the existing plan layout better than that of Apartment 4 (below it) the large North West room is divided by partitions to create a lobby area, living room and bathroom. In this regard it is considered that its historic/original spatial qualities would be severely diminished. Based on, and as a result of the divisional changes and alterations to existing/historic spatial form and qualities of this space it is considered that the proposed alterations to this part of Apartment 7 are harmful to the character and appearance of this part of the listed building.
- 7.21 The National Planning Policy Framework in paragraph 196 states "*that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighted against the public benefits of the proposal including, where appropriate, securing its optimum viable use*". This prominent listed building within the historic centre of Wirksworth holds its significance within a group of buildings. Its ground floor has been vacant for 3 years and has been marketed twice within that time. Its design does not lend itself to a retail use and no offers have come forward during the periods of marketing for other community uses. Banking has changed significantly over time with many branches closing as people move to using online facilities.
- 7.22 The concern relates to historic / spatial qualities of two rooms on the first and second floors where no significant decoration or detailing is retained. In the round, the scheme would restore the building to its former glory and the provision of a two storey extension that is considered to be in keeping with its character creates a viable scheme. The partitions would be reversible in the future and the new doorways would be readable as such. The harm identified is less than substantial and is considered to be at the lower scale of harm. When this less than substantial harm is weighted against the substantial benefit of bringing this building back into its optimum viable use, which has been fully evidenced through the marketing provided, the benefit outweighs the harm. It is therefore considered that the proposal accords with National Policy in relation to heritage assets.



### Highway Safety

- 7.23 Eight apartments are proposed within the town centre of Wirksworth which is one of the primary settlements within the district. Three car parking spaces within the existing courtyard are proposed for residents together with a cycle and bin storage area. The proposal relates to conversion of an existing building that was previously used for commercial use in a sustainable town centre location which is accessible by a choice means of transport. The Highways Authority has no objection to the access, turning and parking provision proposed and this is based on its previous use, town centre location and existing car parking restrictions. On this basis, the proposal is considered to accord with Policy HC19.

### Conclusion

- 7.24 The principle of residential development is acceptable within the town centre and due to the building's former use as a bank (A2) the marketing undertaken provides sufficient evidence that there is no demand for retail or community uses. It has been vacant for 3 years and the proposal would utilise the whole building and improve its external appearance as a prominent Listed Building on the main street within the town. Substantial evidence has been supplied in relation to the impacts on the amenity of the properties 15 and 15A The Causeway and the proposed extension would not significantly increase overshadowing. Two rooms within the apartments are partitioned and are considered to be harmful to the character and appearance of these rooms. When this harm is weighted against the substantial benefit of securing an optimum viable use for the building, the benefit outweighs the harm. It is acknowledged that car parking within this historic town is an issue, however, the town is considered to be a sustainable location in terms of transport as it can be accessed by a choice means of transport and in this regard would not be sustained as a reason for refusal. The proposal would bring life back into this building and the future residents would contribute to the viability and vitality of the town.

## **8.0 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.
2. The construction/building works shall be restricted to between the hours of 08.00 - 18.00 hours Monday to Friday and 08.00 - 13.00 hours on Saturdays with no working on Sundays and Bank Holidays.
3. This permission relates solely to the application as amended by drawing No's (20)4001 and (20) 4010 received on the 11<sup>th</sup> March and drawing No's (20) 4004 Rev A and (20)4011 Rev A received by the Local Planning Authority on 6<sup>th</sup> June 2020.
4. The parking, turning provision and cycle and bin storage areas as detailed on the approved drawing No.(20) 410 Proposed Site Plan shall be maintained clear of any obstruction to its designated use throughout the life of the development.
5. Full construction details (including materials and finishes) of the new staircase shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
6. Details of the roof materials for the extension, any repair / replacement to the existing roof and the render type and colour of both the extension and existing building shall be submitted to and approved in writing by the Local Planning Authority prior to installation.

The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

7. Details of all new and re-furbished rainwater goods building shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
8. Details of all new or replacement external chimneys, flues, extract ducts, vents, grilles, pipework and meter shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
9. A detailed schedule of all windows and doors to be re-furbished (including external paint colour) shall be submitted to, and approved in writing by the Local Planning Authority prior to any works to any window or door. The window and doors shall then be installed in accordance with the approved details and so retained.
10. The dwellings hereby approved shall only be occupied as a principal residence and shall not be used as a second home or for holiday accommodation.

#### Reasons:

1. This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.
2. In the interests of protecting the residential amenity of the occupants neighbouring properties in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan 2017
3. For the avoidance of doubt.
4. To ensure the provision of adequate off street parking in the interests of highway safety to comply with Policy HC19 of the Adopted Derbyshire Dales Local Plan (2017).
- 5-9. In the interests of preserving the character and appearance of the listed building and its setting in accordance with Policy PD2 of the Adopted Derbyshire Dales Local Plan (2017).
10. To ensure the property is used as a primary dwelling to protect local housing stock to comply with the requirements of policy NP5 of the Wirksworth Neighbourhood Plan.

#### **9.0 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 marketing for community uses, overlooking and overshadowing of residential properties.

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 documents:

Drawing No's (20)4001 and (20) 4010 received on the 11<sup>th</sup> March

Drawing No's (20) 4004 Rev A (20)4011 Rev A received on 6<sup>th</sup> June 2020

Drawing No's (20)4014 Rev A, (20) 4016, (20) 4017, (20)4018 Shadow Surveys existing and proposed.

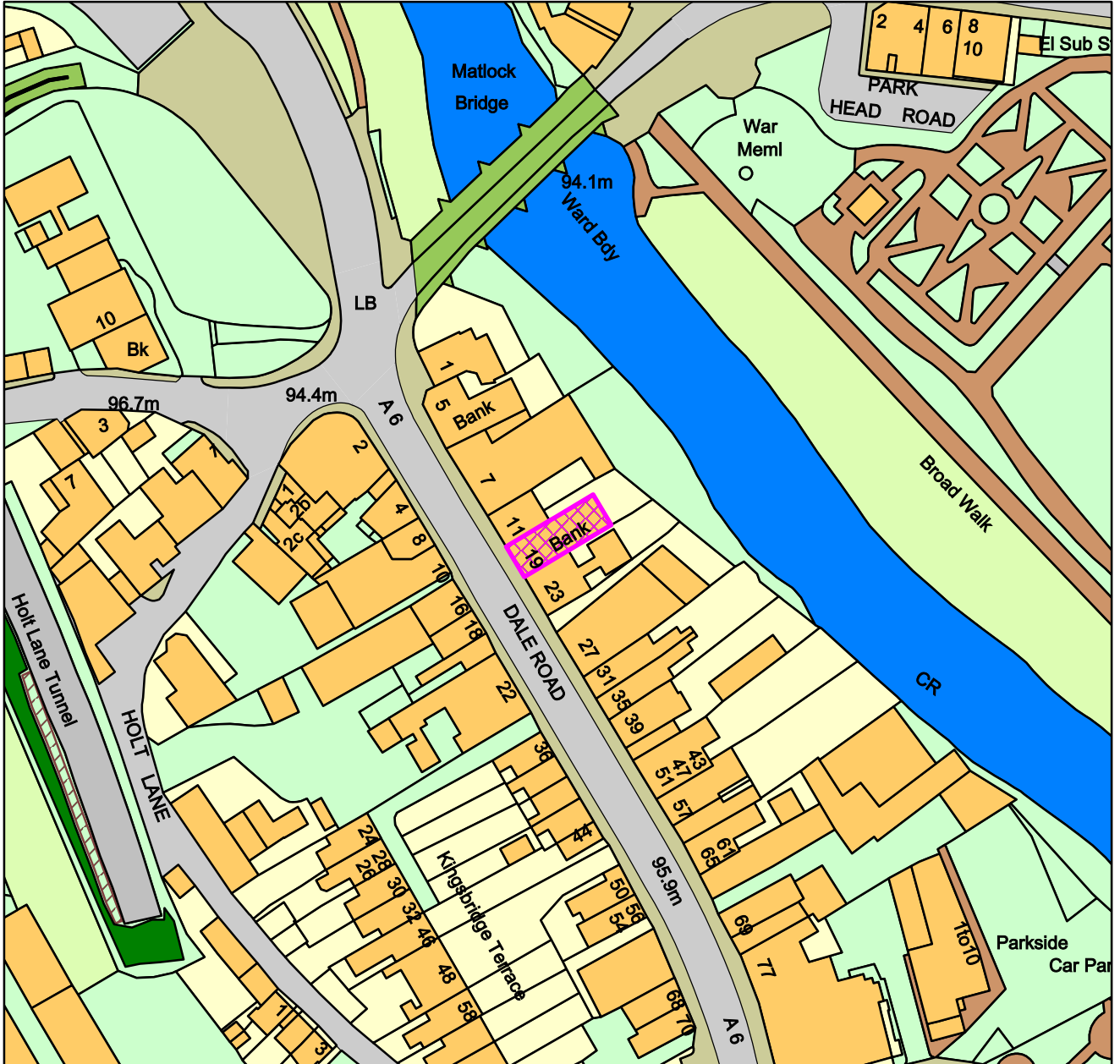
Design and Access Statement and Planning Statemen by Spawforths

Transport Technical Note by MJM Consulting Engineers

Heritage Statement by Graeme Ives

20/00264/FUL

19 Dale Road, Matlock, Derbyshire



Derbyshire Dales DC

Date: 09/07/2020

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Derbyshire Dales District Council,  
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Telephone: (01629) 761100.  
website :www.derbyshiredales.gov.uk

<b>APPLICATION NUMBER</b>		20/00264/FUL	
<b>SITE ADDRESS:</b>		Ground Floor 19 Dale Road, Matlock	
<b>DESCRIPTION OF DEVELOPMENT</b>		Change of use from former bank (A2) to Wine Bar (A4)	
<b>CASE OFFICER</b>	S.Arbon	<b>APPLICANT</b>	Mr Morris
<b>PARISH/TOWN</b>	Matlock	<b>AGENT</b>	Mr D Stack
<b>WARD MEMBER(S)</b>	Cllr.S.Burfoot Cllr.M.Burfoot Cllr. S. Wain	<b>DETERMINATION TARGET</b>	15 <sup>th</sup> May 2020
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Requested by Ward Member	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>– Principle of development</li> <li>– Impact on residential amenity</li> <li>– Character and appearance of the Conservation Area</li> <li>– Highway safety</li> </ul>

<b>RECOMMENDATION</b>
Approval

## 1.0 THE SITE AND SURROUNDINGS

- 1.1 The site is the former National Westminster Bank which is a large and imposing four storey building (built as a bank in the early 20<sup>th</sup> century) and located prominently in the Matlock Bridge Conservation Area. It is built of brick with ornate stone detailing set to the east side of Dale Road (A6) and west of Hall Leys Park and the River Derwent. It is within the Settlement Boundary for Matlock and is also in an area defined as being part of the town centre in the Adopted Derbyshire Dales Local Plan (2017). This application relates to the majority of the ground floor and the whole of the lower ground floor of the former bank premises.
- 1.2 The ground floor (northern section marked 11 on the Location Plan) and whole of the first floor are used for B1 (Offices) with 7 no. consulting rooms. The second and third floors form a three bedroom apartment named 'The House on the Bank'. The building is located between an Antiques shop and Solicitors office and access to the rear of the building and the apartment is via the passageway that runs to the rear of the Solicitors and down the side to Dale Road.



## **2.0 DETAILS OF THE APPLICATION**

2.1 Full planning permission is sought for a change of use of the premises from A2 (Financial and Professional Services) to A4 (Wine Bar). No external alterations are proposed as part of this application. The primary access to the premises would be directly from the existing entrance on Dale Road. On the ground floor would be the bar and lounge area and internal stairs would link to the lower ground floor which is primarily for toilets and storage together with two small wine tasting rooms. The lower ground floor has a side door that would provide access to the outdoor seating area. Five tables are indicated for this area and the existing route for use by the apartment on the upper floors and the emergency exit would be demarcated by 0.6 m high fencing. The staff and customers of the premises would only use the external route to Dale Road in emergencies. The hours of use would be between 11:00-0:00 Monday-Saturday and Bank Holidays and 11:00 to 23:30 on Sundays and the use of the outdoor seating/drinking area would be restricted to the hours of 11:00 - 22:00 Monday-Sunday and on Bank Holidays.

## **3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

3.1 Adopted Derbyshire Dales Local Plan (2017)

S1 : Sustainable Development Principles

S2: Settlement Hierarchy

EC6: Town and Local Centre Uses

PD1: Design and Place Making

PD2: Protecting the Historic Environment

HC19: Accessibility and Transport

3.2 Matlock Bridge Conservation Area Appraisal



3.3 National Planning Policy Framework

3.4 National Planning Practice Guidance

#### 4.0 RELEVANT PLANNING HISTORY:

19/00548/FUL	Change of use from bank to offices (Use Class B1)	PER	10/07/2019
14/00405/FUL	Conversion of second and third floor offices into flat	PERC	06/08/2014
13/00005/FUL	Change of use of second and third floor offices to 2 no. flats	PERC	15/02/2013

#### 5.0 CONSULTATION RESPONSES

##### Matlock Town Council

5.1 No comment.

##### Derbyshire County Council (Highways)

5.2 No objections in view of town centre location and on-street parking restrictions.

##### Environmental Health (Derbyshire Dales)

5.3 The Environmental Health Officer initially raised concerns regarding the proposed hours of use, outside seating area and location of the bin storage area as it was likely to give rise to impacts on the residential amenity of neighbouring properties and especially the residential flat within the building. An amended plan was provided that indicated the access routes for customers and the relocation of the bin storage area. The amended plan was considered acceptable and conditions restricting the opening hours to 11:00-0:00 Monday-Saturday and Bank Holidays and 23:30 on Sundays and restricting the use of the outdoor

seating/drinking area to the hours of 11:00-22:00 Monday-Sunday and on Bank Holidays is recommended.

The application states that hot food will not be sold, so there is no issue of potential cooking odours or noise from an extraction unit.

## **6.0 REPRESENTATIONS RECEIVED**

6.1 Representations have been received from five local residents objecting to the proposal. A summary of the representations is outlined below:

- The owner of the Antiques shop is concerned regarding the impact on their business and rented apartment due to noise from the outside area, odour and loss of privacy.
- There is already the Herd restaurant on one side of their premises which generates noise for talking and bins being emptied together with a lack of privacy with people climbing the wall which impacts on their quality of life of the apartment (7 Dale Road)
- The proposal would impact on the only access to the second and third floor apartment of the building as it appears it would be used by customers.
- This rear route was previously only used as an emergency access for the bank staff and the fire escape stairs are not designed for a primary access to the outdoor seating area.
- The bin storage area would be at the foot of the apartment's external staircase and the associated noise, activity and smells would impact on the bedrooms that face the rear.
- The emptying of the bins causes a concern as it would create noise and disturbance if the alleyway was used and on collection day would cause a disruption. It should be emptied via the building.
- Noise from the outside seating area would impact on the residential amenity of apartments 1, 2 and 3 Derwent Views.

- The hours of opening to 2am is unreasonable and the applicant's existing premises in Duffield is only open to 11am which is more appropriate.
- The application was submitted during lockdown and residents affected may not have been consulted.
- There are far too many premises selling alcohol and staying open till the early morning hours on a very short stretch on Dale Road with the associated antisocial behaviour issues and this proposal would make things worse.
- There are a large number of residents within the area and shouting, screaming and fighting has a negative impact on their living environment and the community as a whole.
- Dale Road is a dangerous stretch of road with on street parking reducing visibility and adding to the numbers of people consuming alcohol is likely to cause accidents.

## 6.2 Comments of Ward Member Cllr M Burfoot:

I do not object to the proposed change of use in principle and welcome a proposal to make use of this vacant, historic building, which is a vital component of the Dale Road streetscape. However, to be consistent with previous applications in Dale Road (albeit usually in the vicinity of the Olde English Hotel) it can be argued that yet another licensed premises here is an invitation to exacerbate the area's past reputation for drunkenness and anti-social behaviour.

Another issue is the narrowness of the pavement along this stretch of Dale Road, which already causes problems for pedestrians where second-hand goods are displayed on the roadside. Should customers congregate outside the application site, this could obstruct safe access along the street for pedestrians. Is a sheltered area for smokers identified and would this be outside the lower ground floor?

The access problem may also impact on deliveries, as well as waste and recycling temporary storage and collection.

Given recent flooding problems in the town centre, is there a potential risk of flooding of the lower ground floor, and if so, is this something which will be a tolerated risk should it happen?

Finally, I do have serious concerns about the proposed opening hours, or specifically the 2am closing time, which I consider excessive. I am concerned about the consistency of the consultation process in this case, whereby businesses across the road have not been informed. This is especially pertinent, considering the number of representations from immediate neighbours. I am particularly impressed by the detailed criticisms from the occupiers of the flat above the former bank and the huge problems they already experience with personal and waste bin access. This will be hugely compounded by the proposed wine bar use and associated, constant night time disturbance, which is already the case from the nearby Herd Restaurant. I am also concerned about the proposed external drinking area, which will also impact on the tenants of the three adjoining flats, as two of the letters of representation have shown.

### 6.3 Comments of Ward Member Cllr S Wain:

Last year I objected to a similar application further down Dale Road, which was closer to and impacting upon residential properties. I would be a hypocrite, if I did not raise the issue of necessity of this type of premise, within an already saturated area.

This is a difficult decision, when such a building has to come back into effective use and add to the vibrancy of our Town. I personally feel we need to look at a cumulative impact assessment for this area.

In relation to flooding, the applicant is correct in the categorisation, but a flood not too much worse than November 2019 would have a negative impact on this property.

I have read the comments put forward by residents and am somewhat concerned regarding the noise and access issues raised. Furthermore, when people are intoxicated, is such an enclosed area a suitable arena in which to socialise?

I have concerns regarding use of the open courtyard and metal staircase. These being open will allow noise to travel upwards having a detrimental impact upon local residents' amenity, who have already expressed concerns. Furthermore, being open to the elements I question the safety of the staircase when wet or icy. I consider there is a strong likelihood that the access through the alleyway will be prone to acts of antisocial behaviour, such as vomiting and urinating. As this is also used by residents this would be wholly unacceptable.

## **7.0 OFFICER APPRAISAL**

The following material planning issues are relevant to this application:

- Principle of development
- Impact on residential amenity
- Character and appearance of the Conservation Area
- Highway safety

### **7.1 Principle of Development**

The premises is within the designated Town Centre of Matlock where Local Plan Policy EC6 applies. The locality is not designated as Primary Shopping Frontage. Policy EC6 seeks to maintain and where possible, enhance the vitality and viability of town centres in accordance with their function, scale and identified development needs.

Policy identifies, amongst other things that this can achieved by:

- *....Permitting appropriate retail, leisure, and other commercial development in centres of a scale and type appropriate to the role and function of that centre.*
- *Creating safe, attractive and accessible town centres, providing a good range of shopping, food and drink uses, services, offices and entertainment, leisure and cultural facilities, and high quality public spaces.*
- *Proposal that would create a concentration of evening economy uses (A3, A4 & A5) that would give rise to social and environmental issues will not be supported.*
- *Ensuring that there is adequate provision for servicing and deliveries.*
- *Requiring active ground floor frontages to be maintained and created within town centres with appropriate town centre uses....*

7.2 In accordance with Policy EC6 the proposed use is acceptable in terms of promoting the vitality and viability of the town centre and with regard to locational requirements.

However, the proposed use needs to also be considered in terms of social and environmental problems that could arise when there is a high concentration of uses in a similar area. The percentages of A3/4/5 uses across the town are relatively low, covering 16% of all town centre uses. The concentration of A3/4/5 uses located on Dale Road, Matlock is slightly higher, at approximately 25% of all retail premises on Dale Road (*DDDC Retail Survey July 2018*). The use is for a wine bar which would offer an exclusive wine tasting experience. The applicant has been running a wine bar in Duffield 'Bradman's Wine Cellar' for 2 years and wishes to expand the business to Matlock. The proposal involves one lounge and bar area with associated outside seating area and 2 private tasting rooms. Having regard to the proposed use and the additional floorspace (294m<sup>2</sup>) created from a change of use is not considered to significantly increase the concentration of A3/4/5 uses in this area to a point where this is unacceptable in principle.

### Impact on Residential Amenity

7.3 Policy EC6 requires the social and environmental issues are considered in relation to the concentration issue and as such the impact upon residential amenity requires careful consideration.

7.4 Concerns have been raised by the residents in the locality that the proposed use would cause a loss of amenity in terms of noise, nuisance, late night operating and anti-social behaviour. The comments of the neighbouring residents have been considered and the application has been referred to the District Council's Environmental Health Team who have recommended reasonable hours of use based on the restriction of similar existing premises on Dale Road and have reviewed the amended plan which has restricted the use of the rear access and proposed a new bin location. The applicant has also advised that the hours of use recommended by the Environmental Health Officer would be acceptable. Having due regard to the mixed commercial and residential nature of the locality, it is considered that the proposed development would not be directly harmful to amenity to such a significant extent that would justify refusal of planning permission, albeit this would be subject to conditions on any grant of planning permission. In this respect, it is considered that reasonable conditions on operating hours including restricting the use of the outside seating area provide sufficient mitigation. The applicant has discussed the concerns of the apartment above and have sought to address their concerns by the following measures:-:

- The bin store area has been moved under the staircase to the back right corner of the yard area.
- The external staircase would only be used as an emergency exit and the primary access to the yard area would be via the internal staircase as noted on the plans.
- The rear access route to Dale Road would also only be used as an emergency route.

- In order to protect and demarcate the access to 19A a 600mm fence is proposed to be erected to create a private route separated from the yard area.
- Regarding bin storage, due to the topography of the land there is an internal bin storage area within the Ground Floor and it is the intention that this is the majority of the bin storage to so it can be taken straight out to the highway rather than externally. As a result the external bin storage would have little to no usage.

7.5 Residents have raised concern that the area is becoming a focal point for night time trade with pubs/bars, restaurants and takeaways. This can lead to increased noise and disturbance not directly attributable to any one premises as patrons are attracted in greater numbers and make noise and cause disturbance outside premises. It is acknowledged that this area has a concentration of such uses, compared to other parts of the town centre. However, this area is not subject to restrictions with regard to shopping frontage protection policies. Whilst Policy EC6 expects proper assessment of the impact of concentration on amenity this has to be balanced against the desire to maintain vibrant and viable town centre which offers choice. In this case, it is considered the direct impact of the premises can be adequately mitigated through the use of conditions. Having regard to the environmental and amenity issues and the limited potential for additional impact resulting from concentration, on balance, the beneficial re-use of the premises are considered to accord with Policy EC6 of the Local Plan.

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

7.7 The premises is located within the Matlock Bridge Conservation Area, however, the application does not include any external alterations to the building. Any future changes would in relation to changes to the external appearance, painting or means of enclosure require a further application. Any signage would be the subject of a separate advertisement consent application. As no external changes are proposed to the front or rear of the ground floor of the building, it is considered that the proposals would not have



a detrimental impact on the character and appearance of the Matlock Bridge Conservation Area, in accordance with Policy PD2.

#### 7.8 Highway Safety

The premises is located within the town centre of Matlock which is a sustainable location, accessible by a range of transport modes. The Highways Authority has no objections to the proposal due to its town centre location and use and as such the proposal is considered to comply with Local Plan Policy HC19.

7.9 The rear part of the building is within Flood Zone 2, however, the main trading area is on the ground floor with access onto Dale Road which is not located within the Flood Zone 2. The external seating area is already hard surfaced and as such it would not increase the impermeable area of surfacing. The use proposed is considered to be no more sensitive than the use as the former bank and it is considered that a Flood Risk Assessment is unnecessary in this case.

#### Conclusion

7.10 Whilst significant concerns have been raised by residents who live in close proximity to the site, it is nevertheless considered, subject to conditions relating to the amended plans and hours of operation for the internal and external areas that the potential impacts on amenity would be appropriately mitigated. The site is within the town centre where proposal for such uses are encouraged in order to promote the economic vitality of the town centre. Although concerns about the potential for a concentration of uses to impact on the amenity are acknowledged, on balance, any cumulative impacts which can be related to this proposal are not considered to be of a magnitude where they would justify the rejection of this application. Given the above, it is recommended that planning permission be granted subject to appropriate conditions.

## 8.0 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.
2. This consent relates solely to the application as amended by the revised plan received by the Local Planning Authority on the 21<sup>st</sup> May 2020 entitled 'Proposed Layout Plan Rev A'.
3. The premises shall be restricted to the opening hours of 11:00-0:00 Monday-Saturday and Bank Holidays and 11:00 to 23:30 on Sundays and the use of the outdoor seating/drinking area shall be restricted to the hours of 11:00 - 22:00 Monday-Sunday and on Bank Holidays.
4. Except in emergency, patrons shall not use the external rear access or passageway of the premises onto Dale Road. A 0.6m fence as detailed on the Proposed Layout Plan Rev A and information for patrons of restricted access to the rear shall be erected before the development is brought into use and retained thereafter.

Reasons:

1. This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt.
- 3-4. In order to safeguard the amenity of neighbouring residents in accordance with Policies EC6 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework.

## **9.0 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 negotiation with the apartment above in relation to the rear access and external bin storage area together with their agreement on hours of use.

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 £34 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 documents:

Location Plan 1:1250 Scale

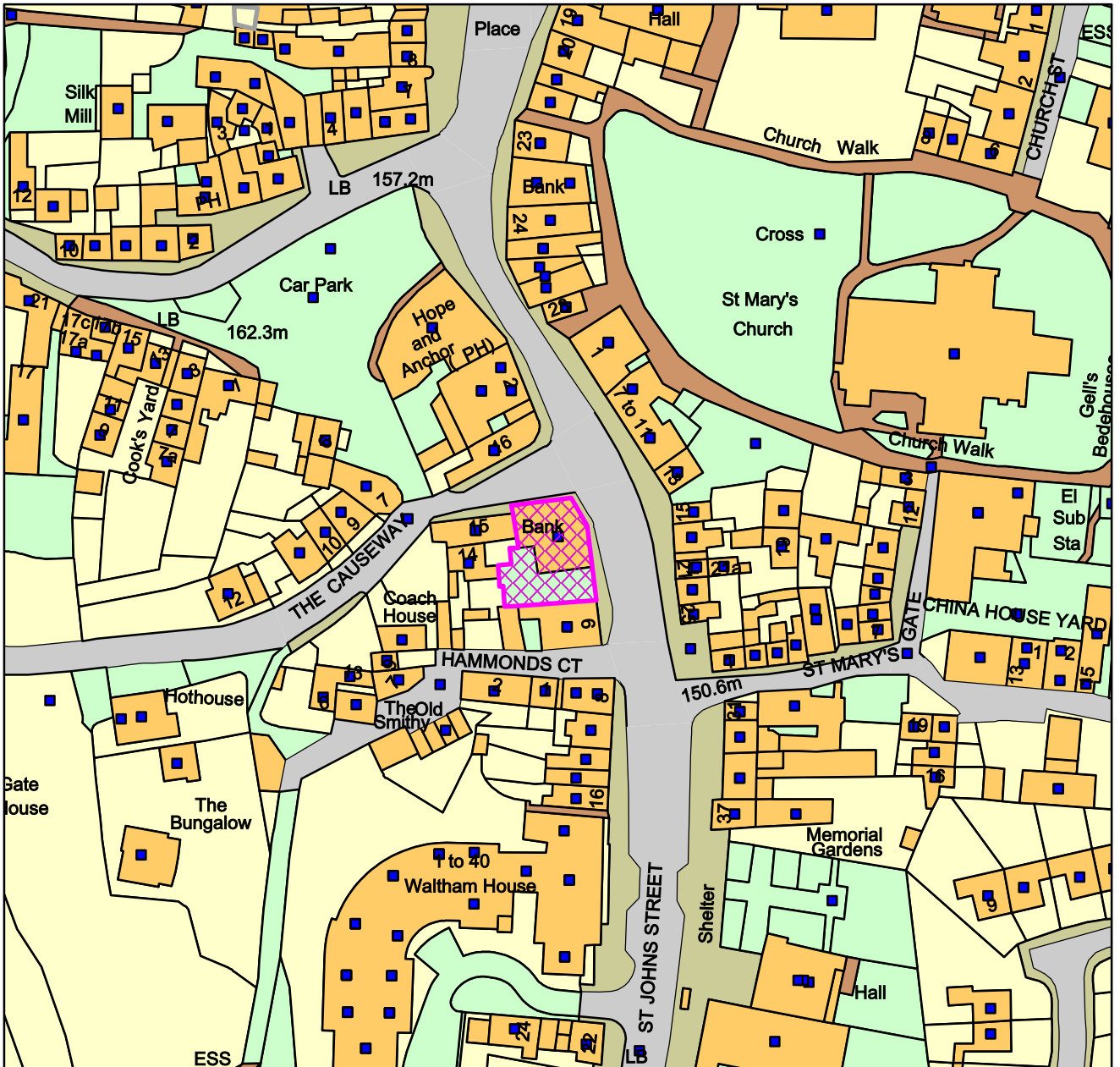
General Arrangement Plan 19\_005-PG-XX-ZZ-DR-IN-1202 Rev P03

Proposed Layout Plans Rev A received on the 21<sup>st</sup> May 2020

Planning, Design and Flood Risk Statement by Chevin Group Holdings Ltd

20/00269/LBALT

4 St John Street, Wirksworth



Derbyshire Dales DC

1:1,250

Date: 09/07/2020

100019785

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

<b>APPLICATION NUMBER</b>		20/00269/LBALT	
<b>SITE ADDRESS:</b>		4 St John Street, Wirksworth	
<b>DESCRIPTION OF DEVELOPMENT</b>		Change of use and conversion from former bank (Use Class A2) to 8 no. apartments with a new rear extension	
<b>CASE OFFICER</b>	Sarah Arbon	<b>APPLICANT</b>	Mr Milner
<b>PARISH/TOWN</b>	Wirksworth	<b>AGENT</b>	Mr I Catherall
<b>WARD MEMBER(S)</b>	Cllr P Slack Cllr M Ratcliffe Cllr E McDonagh	<b>DETERMINATION TARGET</b>	6 <sup>th</sup> May 2020
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Level of representation	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	

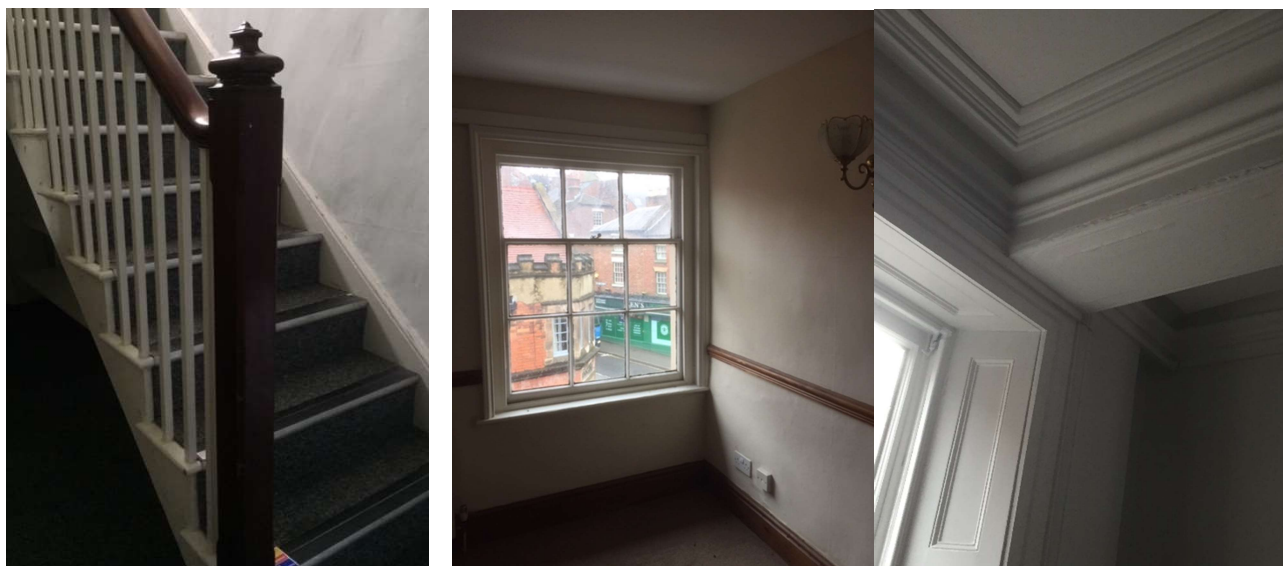
<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Assessment of Impact on Special Character and Appearance</li> </ul>

<b>RECOMMENDATION</b>
Approval

## 1.0 THE SITE AND SURROUNDINGS

- 1.1 The premises is a Grade II Listed Building within Wirksworth Conservation Area, occupying a prominent site on the main route through the centre. The site lies within the settlement boundary of Wirksworth.
- 1.2 The former bank premises was designated on the statutory list in January 1973 and the list entry describes the building as follows:  
*“Mid C19. Stucco. The main block is of 3 storeys with a 2-storeyed 1 window wing on the left-hand side; 3 sash windows, plus 1 blocked to splayed return on right-hand side, all in moulded architraves; doorway on splayed return has moulded architrave with segmental head and fanlight; bold moulded eaves; part tiles and part slate. 4- windowed returned side to The Causeway. Premises occupied by Lloyd’s Bank, Nos 6 to 14 (even) and Wirksworth Maternity Home form a group.”*
- 1.3 The current building dates from c.1780 and was formerly the townhouse of the Beresford family of Fenny Bentley. It became a bank in the later 18<sup>th</sup> century owned by a John Toplis. In the early 19<sup>th</sup> century the bank ownership had a connection with Richard Arkwright Jr. With its history and interest it is an important & significant building in local banking and as a former townhouse in the centre of Wirksworth. The long history of the ground floor being used as a banking operation ceased in September 2017. The upper two floors of the building were converted into flats, probably in the 1970s/80s and are now vacant.
- 1.4 There is a car parking area to the south of the building accessed through an archway and enclosed by the Grade II Listed 9 St John Street to the south which is a Solicitors office. Both 15 and 15A The Causeway are Grade II Listed. A 2.6m high wall encloses the rear courtyard of 15A The Causeway to the north west and a 3m high outbuilding and garden wall bounds the car park to the west. The rear elevations of 15 A and 15 The Causeway are to the north west and have main room windows overlooking at small courtyard and the main access to 15 A is via a gennel adjacent to the side walls of 4 St John Street and 15 The Causeway. The rear garden area of 15A is over the wall to the west.





## 2.0 DETAILS OF THE APPLICATION

2.1 Listed Building Consent is sought for a change of use of this former bank to eight apartments. The proposal is to convert the ground floor into two apartments and a self-contained two-storey dwelling. A two-storey extension is proposed for the southern (courtyard) elevation. The first floor is to be converted into three apartments and the second floor into two apartments. As part of the conversion a new communal staircase serving all of the apartments is to be formed in the centre of the building. Four 1 bedroom, three 2-bedroom apartments and one 1-bedroom two storey dwelling are proposed. The existing strong room would be demolished as part of the proposal. Bin and cycle storage is proposed adjacent to the existing 3m wall to the west.

## 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1 National Planning Policy Framework (2012)
- 3.2 National Planning Practice Guidance (2014)
- 3.3 Historic Environment Planning Practice Guide (2010)

## 4.0 RELEVANT PLANNING HISTORY:

17/00723/LBALT	Removal of ATM and external signage	PERC	11/09/2017
18/01412/FUL	Conversion from mixed use bank (A2 Use) and residential to 1 no. dwelling house, 5 no. self-contained flats and mixed retail (A1) financial and professional services (A2) Use on ground floor	WDN	11/02/2019
18/01413/LBALT	Internal and external alterations	WDN	11/02/2019
13/00558/ADV	Display of 2 no. non-illuminated fascia signs and 2 no. non-illuminated hanging signs	PERC	27/09/2013

13/00560/LBALT	Alterations to listed building - Display of 2 no. non-illuminated fascia signs, 2 no. non-illuminated hanging signs and panel signs	PERC	27/09/2013
1093/0714	Alterations to listed building	A	09/11/1993
1093/0713	Change of use of part of first floor to residential	A	08/11/1993
1092/0832	Installation of through-the-wall cash dispensing machine	A	03/12/1992
1092/0784	Alterations to listed building	A	11/11/1992
0391/0195	Alterations to listed building	A	11/04/1991

## 5.0 CONSULTATION RESPONSES

### Wirksworth Town Council

- 5.1 No Objection. The council notes that there appears to be no reference to the Neighbourhood Plan within the application. There are serious concerns that 2 parking spaces is insufficient given the proposed number of dwellings. The proposal would increase the demand for parking within the town centre, further exacerbating an issue which the town council and community groups continue to see as a significant inhibitor to the ongoing prosperity of the town. They would therefore ask that the developer be asked to review the proposal and take measures to mitigate this issue. The Town Council would wish to see the commercial space remain part of the high street offering and would welcome any suitable application that supports this. Wirksworth Town Council has declared a Climate Emergency and therefore any development or change should seek to reduce the carbon footprint.

### Design and Conservation Officer (Derbyshire Dales)

- 5.2 The self-contained dwelling with the retention of the historic staircase and staircase hall is considered acceptable. In relation to the proposed extension, historic maps and physical evidence do confirm the former presence of a part of the building in this location, however, the height is not known. The proposed extension follows a similar footprint to the former projection and is considered acceptable and would not be harmful to the character and appearance of the listed building. There is evidence that an internal staircase was removed in the 20<sup>th</sup> Century in a similar location to the proposed central staircase and subject to details this is considered acceptable. Within Apartment 1 the smaller strong room would be opened up into a kitchen and this is a consequence of the general intensity of the residential accommodation being imposed into the building's interior. Within Apartments 4 and 7 the existing large North west room is to be divided and in this regard their historic / spatial qualities would be severely diminished and as such are considered harmful to the character and appearance of this part of the listed building. Conditions to cover specific details in relation to flues, grilles, vents, pipework, alterations and repair of all windows and doors, render including colour and roofs and chimney stacks are recommended.

## 6.0 REPRESENTATIONS RECEIVED

- 6.1 A total of 5 representations have been received. A summary of the representations is outlined below:

- The cycle store and bin storage area would cause a noise disturbance.



- Sufficient car parking has not been provided as with 8 residences there is a potential for 16 cars and existing on street parking is limited and controlled by permits.
- Lack of parking is a problem within the town with the Market Place car park often full and inhibits visitors and this proposal would increase the issue.
- The building is Grade II Listed and should be preserved and it is difficult to see that it is possible with such a large extension.
- One of the main issues for Wirksworth is the lack of parking within the town centre and this proposals would result in a loss of parking within the town centre and does not provide sufficient parking for the proposal which is not in accordance with the Wirksworth Neighbourhood Plan.
- Wirksworth's retail provision should be protected and space should be available to new traders.
- Utilising potential retail buildings within the town for residential use is not in the best interests of the community.
- The extension would be very close to the kitchen and bedroom windows of 15A The Causeway and there is a concern regarding the natural daylight coming into these windows and that the extension would seriously overshadow this property.
- The kitchen and bedroom windows are already poorly lit and the extension would reduce natural daylight further.
- The application should be considered against the Building Research Establishment (BRE) Guide 'Site Layout for Daylight and Sunlight' 2011 and a shading survey completed prior to any decision.
- The noise from 8 apartments would be significant and 15A has main room windows adjacent to the car park and cycle and bin storage area.
- Should the application go to committee, members are requested to visit 15A The Causeway to gain a better understanding of how badly the development would affect the resident.
- The proposed extension would cut off light to the French window which is the only source of light to the living room of 15 The Causeway.
- The sloping rooflight would pose a detriment to the privacy of the garden and main room windows of 15 The Causeway.
- The layout of apartment 2 means that the living room / dining room would adjoin the gennel between the properties (15 The Causeway) and noise would be amplified.
- Apartment 7 on the second floor proposes a living room adjacent to the party wall which adjoins the ceiling of 15 The Causeway's master bedroom. Bitter experience from the tenants of the existing flat means that it is known that the wall offer minimal sound insulation and sound is amplified by construction of the floors and ceiling.
- Lack of a sufficient turning area within the car park is likely to pose a danger on the road at the access and egress.

## 7.0 OFFICER APPRAISAL

### Introduction

- 7.1 The proposals result from the proposed change of use of a listed building and, therefore, the impact of the associated alterations have upon the special historic character of the building have to be assessed.

### Impact on the Special Character and Appearance of the Listed Building

- 7.2 In relation to the self-contained two-storey dwelling, whilst a contemporary part of the original building this section of the building has its own historic staircase which is to be retained as part of the conversion and staircase hall (with access doorway) and with the blocking of two interconnecting doorways can be 'self-contained'. The internal alterations are minimal and it is considered that this is an acceptable alteration to his part of the building.

- 7.3 Historic maps and physical evidence confirm the former presence of part of the building in the location the extension is proposed. However, the height of this former part of the building is not known. The proposed extension follows a similar footprint to the former projection and is to be two-storeys in height with an asymmetrical pitched roof over and the walls rendered and painted to match the main property. A benefit of the new extension is the removal of the decaying and unsightly external metal fire escape. It is considered that, based on the evidence of a former projection in this location, and on this similar footprint that a new extension would not be harmful to the character and appearance of the listed building. The removal of the single-storey strong room (south elevation) is acceptable as a later 20<sup>th</sup> century addition. Conditions relating to the extension's roof covering, rainwater goods, window details and render type and colour should be imposed.
- 7.4 The proposed communal staircase, based on an assessment of the existing floor plan / layout and on the elevations (particularly the southern elevation) it appears clear that probably in the 20<sup>th</sup> century the original staircase was removed. The plan-form and layout appear to suggest strongly that the former staircase would have occupied the location of the proposed new communal staircase. The proposed floor plans depict the proposed new staircase and its form, layout and configuration and is considered acceptable subject to details to be controlled by condition.
- 7.5 The proposed ground floor layout is considered to be acceptable. The bank usage has had a significant impact on historic changes to the layout and plan-form of the ground floor and whilst a partly conjectural re-construction of an original layout could be utilised the structural changes are such that the proposed layout respects, as far as possible, what remains. The 19<sup>th</sup> century strong room, with its thick walls, is a significant part of the banks use of the building. The proposal is to utilise this room as a kitchen which (whilst retaining down stands and the cornice etc.) involves opening up two of the walls to provided physical/visible inter-connection with the layout of Apartment 1. Whilst some alterations to the strong room may be deemed acceptable the requirement to alter this small room is as a consequence of the general intensity of residential accommodation being imposed into the building interior.
- 7.6 On the first floor the proposed layout of Apartment 4 gives cause for concern as a consequence of the intensity of accommodation being incorporated into the existing plan layout to this part of the listed building. The existing large north west room, as originally conceived and which has been retained to date is to be divided almost in half with various partitions forming a lobby, bedroom and living room. It is considered that in this regard its historic/original spatial qualities would be severely diminished. The adjacent room (also to Apartment 4), with an existing chimneybreast is also heavily compromised by its partitioning/division to form a kitchen & bathroom and the formation of an opening by the side of the chimneybreast. Based on, and as a result of the divisional changes and alterations to existing/historic spatial form and qualities it is considered that the proposed alterations to form/create Apartment 4 are harmful to the character and appearance of this part of the listed building. The applicant's Heritage Consultant has reviewed this issue and considers that as the proposed room within apartment 4 is a secondary space which does not retain any significant decoration or detailing. The partition between the bedroom and living room would be reversible and the proposed archway would not be full height and would thus read as new doorway and therefore he considers the proposals would not harm the significance of the building.
- 7.7 On the Second floor layout, whilst in general terms it is considered that the proposed layout of Apartment 7 respects the existing plan layout better than that of Apartment 4 (below it) the large North West room is divided by partitions to create a lobby area, living room and bathroom. In this regard it is considered that its historic/original spatial qualities would be severely diminished. Based on, and as a result of the divisional changes and alterations to existing/historic spatial form and qualities of this space it is considered that the proposed alterations to this part of Apartment 7 are harmful to the character and appearance of this part of the listed building.

- 7.8 The National Planning Policy Framework in paragraph 196 states “*that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighted against the public benefits of the proposal including, where appropriate, securing its optimum viable use*”. This prominent listed building within the historic centre of Wirksworth holds its significance within a group of buildings. The ground floor has been vacant for 3 years.
- 7.9 The concern relates to historic / spatial qualities of two rooms on the first and second floors where no significant decoration or detailing is retained. In the round, the scheme would restore the building to its former glory and the provision of a two storey extension that is considered to be in keeping with its character creates a viable scheme. The partitions would be reversible in the future and the new doorways would be readable as such. The harm identified is less than substantial and is considered to be at the lower scale of harm. When this less than substantial harm is weighted against the substantial benefit of bringing this building back into its optimum viable use, which has been fully evidenced through the marketing provided, the benefit outweighs the harm. It is therefore considered that the proposal accords with National Policy in relation to heritage assets.

### Conclusion

- 7.10 The proposed alterations would allow a beneficial use of the listed building. Whilst some elements of the proposal, in relation to two rooms within the apartments are partitioned and are considered to be harmful to the character and appearance of these rooms, when this harm is weighted against the substantial benefit of securing an optimum viable use for the building, the benefit outweighs the harm in accordance with NPPF paragraph 196.

## **8.0 RECOMMENDATION**

That Listed Building Consent be granted subject to the following conditions:

1. The works hereby permitted shall be begun before the expiration of three years from the date of this consent.
2. This permission relates solely to the application as amended by drawing No's (20)4001 and (20) 4010 received on the 11<sup>th</sup> March and drawing No's (20) 4004 Rev A and (20)4011 Rev A received by the Local Planning Authority on 6<sup>th</sup> June 2020.
3. Full construction details (including materials and finishes) of the new staircase shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
4. Details of the roof materials for the extension, any repair / replacement to the existing roof and the render type and colour of both the extension and existing building shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
5. Details of all new and re-furbished rainwater goods building shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

6. Details of all new or replacement external chimneys, flues, extract ducts, vents, grilles, pipework and meter shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
7. A detailed schedule of all windows and doors to be re-furnished (including external paint colour) shall be submitted to, and approved in writing by the Local Planning Authority prior to any works to any window or door. The window and doors shall then be installed in accordance with the approved details and so retained.

Reasons:

1. This is a statutory period which is specified in Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. For the avoidance of doubt.
- 3-7 To safeguard the special historic character and appearance of the listed building to comply with government guidance contained in the National Planning Policy Framework.

## 9.0 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 marketing for community uses, overlooking and overshadowing of residential properties.

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 documents:

Drawing No's (20)4001 and (20) 4010 received on the 11<sup>th</sup> March

Drawing No's (20) 4004 Rev A (20)4011 Rev A received on 6<sup>th</sup> June 2020

Drawing No's (20)4014 Rev A, (20) 4016, (20) 4017, (20)4018 Shadow Surveys existing and proposed.

Design and Access Statement and Planning Statement by Spawforths

Transport Technical Note by MJM Consulting Engineers

Heritage Statement by Graeme Ives

<b>APPLICATION NUMBER</b>		20/00295/FUL	
<b>SITE ADDRESS:</b>		Land North Of Crown Yard, Wirksworth	
<b>DESCRIPTION OF DEVELOPMENT</b>		Proposed co-housing development comprised of 2no. semi-detached dwellings and associated garden courtyard	
<b>CASE OFFICER</b>	Mr. G. A. Griffiths	<b>APPLICANT</b>	Messrs Smedley, Walters, Lounds
<b>TOWN</b>	Wirksworth	<b>AGENT</b>	Evans Vettori Architects
<b>WARD MEMBERS</b>	Cllr. E. McDonagh Cllr. M. Ratcliffe Cllr. P. Slack	<b>DETERMINATION TARGET</b>	23 <sup>rd</sup> July 2020
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Number of unresolved objections	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	

## MATERIAL PLANNING ISSUES

- Background and policy
- Impact on the character and appearance of the Conservation Area
- Impact on archaeology
- Trees and landscaping
- Climate Change
- Highway matters
- Impact on amenity

## RECOMMENDATION

Approval

# 1. THE SITE AND SURROUNDINGS

- 1.1 The site lies within the Wirksworth Conservation Area. The site is an enclosed backland area which lies to the north of Bowling Green Lane, which is a pedestrian route linking Crown Yard with The Dale and West End through the back area of what are largely residential properties. The Dale lies beyond a group of residential properties to the north of the site. There are residential properties to the south which front West End and to the north west the site is largely overlooked by 8 Bowling Green Lane (Bowling Green House). To the east of the site is Rydes car park, an area of land owned by the District Council which has permit parking for local residents.
  
- 1.2 Access to the site is via a pedestrian gateway through a high, stone built boundary wall, off Bowling Green Lane where it leads down to Crown Yard. The land to the west, on which 8 Bowling Green Lane is set, is above a retaining wall. The site is also set above a retaining wall to the east which drops down to Rydes car park. The historic excavation of the site that has taken place, in the otherwise west to east slope of the townscape, have created a flat site.
  
- 1.3 The evolutionary history and development of the site has been well researched and comprehensively set out in the submitted Heritage Statement. Whilst this is of great importance in understanding the site and its history within the development on the town, the site remains as an un-developed open space within the core of the historic town with its last/current use being a garden space and possibly a bowling green historically which may account for the extensive engineering works undertaken to create this flat site. There are several modest buildings, including an historic vinery on the perimeter parts of the site. There is evidence of formal subdivision of the space and that it was used as a garden, allotment and orchard.







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

- 2.1 Full planning permission is sought for a development of a pair of semi-detached dwellings (split-level) occupying the south-west corner of the site. This is a joint project of the applicants who intend to reside at the dwellings. In this respect, the proposals are for a shared garden amenity space. In terms of their footprint, they are relatively small and the majority of the site will remain open and as garden.
- 2.2 The dwellings are proposed to be constructed with relatively flat 'green' roofs, stonework walls and contemporary glazing. The overall building is proposed to have a main, two storey central section measuring some 9.3m wide by 5.8m deep and would be 4m high above ground level. This is proposed to also be set 1.2m into the ground. There is also a single storey projection proposed to be set forward off the central section of the building measuring 9.3m wide by 4.8m deep and 2.9m high set largely at the existing ground level.
- 2.3 'Wings' are proposed either side of the main element of the building, the one to the south measuring 4.5m wide by 6.8m deep and 1.9m high above ground level and the one to the north side measuring 4.5m wide by 5.3m deep and 1.9m high above ground level. These elements are again proposed to be set 1.2m into the ground. To the front of the 'wings' it is proposed to provide sunken, private yard/amenity spaces leading up to the ground level garden area which is proposed to serve and be shared by the occupiers of the two dwellings. The dwellings would each provide a kitchen/dining area, a living room, a bedroom with ensuite and a studio/bedroom with ensuite.
- 2.4 The applicants have submitted a statement which sets out how the development responds to climate change and proposes measures such as meeting building standards with regard to insulation, air source heat pumps, mechanical ventilation with heat recovery and a green roof which offers greater insulation.
- 2.5 The applicant proposes to repair the retaining wall to the east of the site adjacent to Rydes car park and introduce steps down to it with the aim of seeking to secure parking spaces within this area to serve the development.

## **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
  - PD2 Protecting the Historic Environment
  - PD3 Biodiversity and the Natural Environment
  - PD6 Trees, Hedgerows and Woodlands
  - PD7 Climate Change
  - HC19 Accessibility and Transport
  - HC21 Car Parking Standards
- 3.2 Wirksworth Neighbourhood Development Plan (2015-2028)
  - NP1 Setting and Shape of the Settlement
  - NP2 Quality and Character of Development within the Settlement
  - NP4 Size of New Homes and Space Standards
  - NP5 Principal Residence Homes
  - NP6 Quality of Residential Development
- 3.3 Wirksworth Conservation Area Appraisal



### 3.4 National Planning Policy Framework

### 3.5 National Planning Practice Guidance

## 4. RELEVANT PLANNING HISTORY

None.

## 5. CONSULTATION RESPONSES

### 5.1 Town Council

- Object
- application places further pressure on the already limited parking within the centre of the Town and if granted would reduce the parking resources (amenity) available to existing residents
- wish to make the following additional comments in relation to the application and the Neighbourhood Plan:
  - o NP1 (B) i. & ii: As stated in the applicants' Design and Access Statement (DAS), the development should respect the local character of this particular area. The DAS explains how the design accords with that requirement. The site is in the Conservation Area but the neighbourhood plan does not have Conservation Area policies; those are in the District Council's Local Plan and other relevant document
  - o However, NP1 (B) iii adds that the development "should take every opportunity to achieve ecological sustainability and a carbon neutral development, including the use of energy efficiency measures and low-carbon energy generation." The DAS mentions these requirements and says, "buildings should be designed with an external fabric of highly insulated thermal elements with integration of alternative renewable sources of heat and power to create low-energy and sustainable dwelling houses that respond pro-actively to the challenges of climate change." To accord with the NP policy, the Town Council would ask that District Council ensure that the design actually fulfils what 'should be designed'. See also Policy NP7 (below)
  - o NP5: "planning permission for new dwellings will be subject to a restriction to ensure their occupation only as principal residence homes." The Town Council request that the District Council impose a condition on the planning permission ensuring that the dwellings will not be occupied as second homes, holiday lets or any other form of "intermittently occupied" dwellings
  - o NP7 sets energy-saving standards. It requires the dwellings to reach Code for Sustainable Homes (CSH) level 6 from July 2020 onwards. The design and access statement says they will aim to reach level 5 or 6. Level 5 is a lower standard than Level 6, albeit understand that other subsequent policies may take precedence.

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

- has now been clarified that the proposed pedestrian (stepped) access and retaining wall works do not impact on the adopted highway
- in view of the location of the properties, it is recommended that conditions are attached with regard to the provision of space within the site curtilage for the storage of plant and materials and site accommodation and a construction traffic management plan/statement.

### 5.3 County Archaeologist (Derbyshire County Council)

- no objections subject to conditions
- refer to comments in the ISSUES section of this report.

### 5.4 Design and Conservation Officer (Derbyshire Dales District Council)

- no objection in principle
- refer to the Officer comments in the ISSUES section of this report.

### 5.5 Arboriculture and Landscape Officer (Derbyshire Dales District Council)

- an Arboricultural Method Statement (to be prepared to the guidelines of BS5837:2012) is required to demonstrate how retained trees located within the site and up to 15m beyond the red line boundary would be protected from harm during development
- historic existing open space is important to the environment and the pattern of development in this old part of Wirksworth - effects of building on such features upon the character and appearance of the conservation area should be given careful consideration.

### 5.6 Neighbourhoods Manager (Derbyshire Dales District Council)

- District Council has not provided parking spaces to the developer
- Rydes Yard car park is not public but is instead set aside for particular permit holders
- proposed new properties would fall within the catchment area for eligibility in the permit scheme and the developer has expressed a wish to be put on the waiting list for spaces, should the development proceed
- no guarantee that parking spaces there will become available in the foreseeable future, as turnover of permits is extremely low
- believe the reference to *'repair and reinstatement of the retaining wall to the Dale Car Park and the introduction of pedestrian steps from the application site down to the parking level'* refers to the car park boundary wall and not a boundary to public highway
- pedestrian right of access only down to the car park being considered by Legal Services.

## 6. REPRESENTATIONS RECEIVED

### 6.1 Wirksworth Archaeological Society

- note high standard of the heritage statement but effectively says not worth the effort with regard to archaeology
- loss of opportunities at Waltham House in terms of medieval history of the town and The Hawthorns in comprehensive damage to the site of the town's Roman amphitheatre are unforgivable
- main concern is that the site may lie just within the town's putative fortifications and less than 100 yards from the site at West Gate
- supportive of the application conditional on archaeological requirements being carried out.

### 6.2 A total of 8 representations have been received in support of the original submitted details. A summary of the representations is outlined below:

- the site's essential contribution to the historic townscape is that it is open space bounded by high stone walls - research carried out by the applicants' agent reveals the site's most interesting history as the location of the bowling green which gave the name to the lane above it and an amenity of the Crown Inn below it
- this plot has pretty much been a "secret" and unexploited garden
- garden is not, and has never been visible from the road, or any of the jitty's, as it is surrounded by high walls so it will have no visible impact
- the houses will be taking up less than half of the site, thus securing the garden for the future

- designs are really interesting and contemporary - go towards adding variety to the town centre
- the simple, modern treatment is completely appropriate, revealing as it does a contemporary modest intervention into a sensitive historic 'garden' type location
- the high quality of the architect's design will provide a positive 21st century addition to this exceptional historic town
- scheme and design makes best possible use of the space
- the majority of the site would be used as a shared garden, maintaining its open undeveloped character, with the historic quadrant layout identified in the research, retained
- design is carefully nestled into the space with the upmost care to all who surround it
- the green roofs and gardens will soften the structure and the area will retain its green nature and be greatly enhanced by the maintenance it will receive
- the conservation area has a varied palette and feel the external materials complement the design
- has been designed with care and sensitivity to take account of the site's special and particular qualities
- the dwellings are tucked into an excavated, relatively small, south west corner of the sloping site
- the development is broken down into six small units all of which are kept low, with (green) flat roofs allowing the dwelling uphill unobstructed views and minimising intrusion into the historic townscape, with the high boundary walls screening it from view from many viewpoints
- one factor which seems out of character with the location is the use of red brick - consideration should be given to the use of gritstone and/or limestone
- when planning permission has been given to building on the Dale/Greenhill that is hugely visible, high impact and not necessarily in keeping (No 83 Greenhill hanging over the beautiful park and Middle Pingle House standing as a 4 storey beacon over the town) it would be hard to understand why this project would not be acceptable
- in years to come, this project will contribute to people's enjoyment of the history off the town
- hope upper parts will be visible to members of the public
- the dwellings and their amenity spaces are humble and subtle to their surroundings
- dwellings are a stone's throw from all the local amenities in the Town Centre, therefore vehicular usage can be kept to a minimum
- would make a super 21<sup>st</sup> century addition to the town and has sustainable elements would make it a fine model for future designs of its kind
- one of the most impressive submissions seen in 61 years of living in Wirksworth and 46 years in the construction industry, and sitting on the Conservation Advisory Forum and Wirksworth Civic Society, gives appreciation of this exceptional submission
- architect has taken great care that these modern houses have minimal visual impact in the Conservation Area, unlike many of the pastiche buildings built nearby on the site of historic cottages and gardens
- offer accessible and affordable housing - elderly people will have an opportunity to live in this most delightful area
- will be important to make clear that any planning permission is specifically for this very carefully considered design and does not establish any precedent for an alternative design
- housing is in desperate need all over the country and considerate dwellings, such as these, within the settlement boundary of the town, should be encouraged
- should be kept as a permanent dwelling place and never be sold or used as a holiday cottage or second home to protect the Dale and Greenhill where already 25% of the houses stand empty a lot of the year

6.3 Three letters of representation received with regard to the amended plans which are in support the proposals.

- 6.4 A petition (7 letters) objecting to the application, a summary of which is outlined below:
- adversely affects the character and appearance of the Conservation Area around The Dale and Greenhill as it will reduce one of the largest greenspaces in the area
  - not in keeping with the area in design terms – the area is characterised by a mixture of roofs and chimney pots arranged in a ‘higgledy-piggledy’ fashion
  - access to the site is very restricted and there is no parking
  - would set a dangerous precedent for using gardens as building plots within the immediate Conservation Area.
- 6.5 Ten representations have been received objecting to the original application details. A summary of the representations is outlined below:

Impact on the character and appearance of the Conservation Area

- development will be visible from several properties on Bowling Green Lane and The Dale and from both adjacent footpaths
- is a Conservation Area with very old historic buildings, built out of limestone and brick, dating back to the 17th century, connected by many historic limestone walled alleys made from limestone out of the local quarries - believe this application does not fit into this environment nor do the materials it will be built out of
- development would remove the special character of this part of the Conservation Area known as the ‘Puzzle Gardens’ - this is special interest, higgledy-piggledy in form and a valuable green space
- design is incongruous and is not sensitive to the materials used in the area
- proposed roof is not in keeping in the area which is within the Article 4 of the Conservation Area of Wirksworth
- whilst a green roof is environmentally friendly, they are incongruous in a conservation area and there is no other roof of this type in the immediate area
- design does not replicate in any way, the design of properties in the area - majority of properties are stone or stone/brick construction all of which blend into a conservation area
- the materials and the large unbroken block massing are not sensitive to the materials and massing of the wider Conservation Area - green roof proposed is unlikely to mitigate this and is not in keeping with the roofscape of the area
- whole point of living in a conservation area is to try to preserve what’s already there
- risks changing the local environment
- previously had a recreational use and as such served an important function as a green space
- although access is restricted to private use, these proposals do not appear to fit with the spirit of conservation or the expectations of a Conservation Area
- The Dale is a historic part of Wirksworth known for its quirky cottages randomly set in the hillside with scattered areas of green throughout the view from Bowling Green Lane, looking over the rooftops of the town and beyond, inspires photographers and artists and with the festivals and events put on, attracts many visitors year after year - feel the design of these dwellings, built on the Old Bowling Green itself amidst this iconic view, will not only have a negative impact on the character of the area but also take up valuable green space
- will affect the iconic view from Bowling Green Lane over the town to the hills beyond
- part of the attractiveness of the Conservation Area around The Dale and Green Hill are the patches of green scattered through the area
- area is not short of properties but it is short of green spaces which will be reduced by building on the Bowling Green
- would compromise this green open space and the character of the area, reducing the green space and implanting a manicured modern and out of keeping built development
- once built on, this green space cannot be reclaimed

- the walls in the Conservation Area are subject to planning permission for their removal or alteration - if work is carried out without permission it is in contravention to Article 4 instructions
- plans indicate that a gateway is formed in an existing wall which actually opens onto Council owned land and not onto privately owned land by the applicants.
- if permission were to be granted feel this would also set a precedent for further developments on other green space in the locality
- there have been two Planning Inspector decisions dismissing developments on garden land in 2012 and 2013 (refs: 12/00656/FUL and 13/00659/FUL) - need to weigh the impact on the whole area in creating a precedent that diminishes the protection of the area as a precious heritage asset
- a condition should be placed on any approval given to ensure that the listed walls around Crown Yard and West End car park are not damaged

#### Impact on neighbours' amenity

- loss of views from some existing properties in the area
- proposed dwellings could impact the loss of light to neighbouring houses and their gardens as they would block the southern aspect
- the sight lines (based on a person of 5' 8" tall) go directly from Bowling Green House into the two proposed new houses, which are located very close to the existing property
- roof height of the proposed houses varies according to which of the submitted elevation plans are looked at
- a specific measurement should be given and relate to a physical feature such as the existing listed walls
- proposals should say where the roof heights of each house are proposed to be in relation to the Crown Yard alley walls and the walls in front of Bowling Green House (BGH) - as the proposals involve changing ground levels, this would then avoid any doubt as to what the proposals are
- the boundary wall and fence above it on the boundary with BGH is 1.9m high whereas it is in fact between 1.5m and 1.6m - the claimed desire to retain views at BGH created by low profile roofs is not achieved
- a condition should be put on, if any approval given, that the final height of the houses should be below the fence height of BGH - the fence is only temporary so the buildings should really be below the wall height which would ensure that there is no loss of light at BGH, nor loss of amenity along the adjacent alley
- the high level rear windows appear to be two metres from the existing BGH windows and should be fixed and frosted - ideally they should be removed as light pollution cannot easily be overcome
- given the error in measurements, they will look directly into BGH, so compromising the privacy of BGH
- rear low level windows should be frosted glass
- single storey buildings are much more appropriate for the site
- only access to the site is through a small doorway - difficult to imagine how cranes, excavators and other construction vehicles will be able to carry out their work without huge disruption and noise, not only to residents but visitors too
- noise will be an issue in this tight built up area
- plans indicate substantial excavation of ground close to the plots western and southern boundaries
- trucks will have to park in the car park and use lifting cranes to manoeuvre the materials over the stone wall on to the site causing noise and inconvenience to the residents who live and park there
- skips which may be used to remove debris and rubble from the proposed site will be put in place on the car park causing inconvenience to permit holders and taking up valuable car space and turning area
-

- heritage statement claims the site was already excavated into the pre-existing sloping hillside, so it is likely that the limestone bedrock will be at a shallow depth - vibrations from jack-hammers, etc. could well affect the stability of the 3m retaining walls with considerable health and safety risks to workers, occupants of the new dwellings and BGH
- neighbourhood will be subjected to the delivery of materials from 8am Monday to Saturday, adversely affecting what is at present a quiet residential area
- any temporary traffic lights on The Dale will have an impact on residents in the area.

#### Impact on trees/landscaping/ecology

- there are trees on this site, in particular a very old and beautiful laburnum which would almost certainly get damaged, not to mention the wildflowers and the life they attract
- the trees, which are an integral part of the Bowling Green, are likely to be damaged by the works
- insufficient information to assess the effect on existing trees within the Conservation Area
- will destroy flora, fauna and ecology which has established over a century of garden husbandry

#### Highway matters

- will put even more pressure on the already extremely limited parking in the area
- access to the site is very restricted with vehicle access prohibited, it would impact on other already congested areas for parking and goods delivery
- parking is an issue with residents who have to ride around several times to acquire a spot and the other option, The Dale car park, always has a waiting list - with a possible four more vehicles this will only add to the ongoing problem
- needs to be more clarity about the car parking arrangements to ensure that page 163 of the Local Plan is complied with
- delivery of materials will be via the car park - The Dale already has delivery problems for drivers
- trucks and abnormal loads will have to manoeuvre past the bend near the book shop and two parking spaces on Dale End which are almost always occupied by residents
- trucks will then have a 90 degree turn into the car park
- road width restricts the length of delivery trucks and as a consequence more trucks will be used
- if no lifting crane is to be used, the materials will be deposited in the car park causing nuisance, inconvenience, restrictions and dust to residents who pay for the use of a parking space
- pavement areas are very narrow at this point on The Dale and may cause problems for pedestrians and cyclists
- car parks in the area are already over capacity and development would worsen this situation
- application does not provide or create any car parking spaces and is therefore contrary to Policy TR8 of the saved local plan
- car parking required by saved local plan policy suggests 1.5 car parking spaces per 1 bedroom dwelling (therefore 3 new car parking spaces are necessary to serve the development) - this application provides none.
- applicant should be genuine in their intentions and apply for two, 2 bedroomed properties or, in the event of the application being approved, a planning condition should be placed on any planning permission restricting them to being 1 bedroom dwellings
- the application forms state two additional car parking spaces will be provided, but no car parking or a means of providing additional spaces is shown within the application or proven
- car park is a resident's only car park for those with permits
- has been suggested that by clearing the debris by the top right hand corner a further two spaces will be created - in reality this will not happen and cars will still be at right angles to each other

- if further spaces were made available, these should be made available to all residents and not used as part of an application to build in the area - "gifting" of car park spaces to the applicants be it on sale, lease, permanently, temporary or as a permit, creates a precedent which is biased in favour of individuals as opposed the wider community
- there are residents in the area who hold Blue Badges: care afforded to them by the NHS restricts their carers from parking in the area because The Dale and Greenhill has very limited on-road parking - any additional parking created in the car park should enable these carers to park under a disability parking scheme
- debris caused by the delivery of materials and the removal of waste may impact not only the spaces on the car park but also on The Dale itself
- skip size is restricted by the access; what is classed as builders sized skips would not be able to be used
- skip delivery and removal will create even more unwanted heavy traffic and dust on the very narrow road
- as the proposed development does not have vehicular access from the public highway, the effect of construction on the public footpaths should be considered and the relevant notifications be made but do not appear to have been as only Certificate 'A' has been completed

#### Accessibility

- disabled access is very difficult and ambulances and paramedics find it difficult to manage a wheel chair on the steep narrow ginnels

#### Use of dwellings

- plans to create 2 buildings on such a small plot, with a shared garden space, suggests they are not likely to become family homes, but holiday lets that would contribute to this part of Wirksworth becoming an "AirBnB desert" rather than a thriving community

#### Other matters

- an unacceptable development on what was historically a garden and is now classed as "Garden Grabbing"
- requirement for spacious accommodation areas, such as gardens and other non-inhabited space has only been highlighted further by the Coronavirus Pandemic, in which social distance has been vital to protecting health and services
- most of the drawings are incorrectly labelled, eg, B-B is east elevation looking west
- should have completed Certificate 'B' and made appropriate notifications to the landowner as the redline area does not include the car parking spaces they seek to rely upon and therefore is not a valid submission and the application has not lawfully been made.

6.3 Four letters of representation received with respect to the amended plans which advise the following beyond the comments made above:

- see little change and previous comments stand
- will remove area of ground that can soak up monsoon type rain which is now becoming common with climate change
- amended drawings do not refer to the issue of overlooking with regard to rear windows on the scheme and only way to remedy this is to remove the rear windows
- amendments do not have any revision clouds
- cross section incorrect
- claim that distance to boundary is 3m is incorrect and varies between 1.8 and 2.4m
- have still not put final level heights and levels in relation to a final fixed, unchanging point which is important as excavations are likely to be of bedrock
- has been no opportunity for meaningful discussion with the applicants and given the impression that the application was approved by Officers stated in the Design and Access Statement

- because pre-application is confidential neither solicitor nor neighbours were warned of the application when buying properties as enquiry forms returned to DDDC did not reveal it
- comments on decking provided to Bowling Green House
- comments on size of glazed element to Bowling Green House seem irrelevant as permission was given (ref: 14/00411/FUL)
- green roof is a crude attempt at making a flat roof acceptable – is a by-product of the development never being physically capable of fitting without extreme, negative consequences upon adjoining neighbours
- if a flat roof is the only design solution, then have to question if this is appropriate for any site, let alone a Conservation Area
- how can the green roof be maintained
- will there be people regularly walking around the roof tending it and looking into the neighbouring property
- what will it look like if it is not maintained – the use of green roofs are fraught with problems
- car parking not within the red edged site and should therefore not be considered a valid application
- application invalid as no notification given to the DDDC regarding the car park or DCC regarding the physical and visual impact on the public footpath and Local Planning Authority could be found to be in maladministration of the application by not requiring these areas to be within the application site
- the creation of two car parking spaces is blatantly incorrect.

## 7. OFFICER APPRAISAL

### Background and Policy

- 7.1 As advised above, the site lies within the Wirksworth Conservation Area. The evolutionary history and development of the site has been well researched by the applicants in the submission of the application and is comprehensively set out in the submitted Heritage Statement. Whilst this is of great importance in understanding the site and its history within the development on the town, the site nevertheless remains as a largely un-developed, open space within the core of the historic town of Wirksworth.
- 7.2 The fact that any land within a Conservation Area has remained un-developed does not mean that it should not be developed. However, the potential impacts of development need to be weighed carefully as to the potential effect development may have on the character and appearance of the Conservation Area. The primary Act, in relation to development within a Conservation Area, requires a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area.
- 7.3 The NPPF directs that ‘opportunities for new development within Conservation Areas should enhance or better reveal their significance’ and the ‘desirability of new development making a positive contribution to local character and distinctiveness’. In considering a proposal for new development in a Conservation Area this should not mean that new development should, necessarily, be a modern replica or pastiche of traditional architecture and design (although that may be appropriate in particular places/sites/contexts) but should also include good modern ‘contemporary’ architecture and design. Policy PD2 (Protecting the Historic Environment) of the Adopted Local Plan (2017) which states that:

*The District Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment.....requiring development proposals in Conservation Areas to demonstrate how the proposal has taken account of the local distinctive character and setting of the Conservation Area including open spaces and*



*natural features and how this has been reflected in the layout, design, form, scale, mass, use of materials and detailing, in accordance with Character Appraisals where appropriate.*

- 7.4 Paragraphs 2.6.1 and 2.6.2 of the Wirksworth Neighbourhood Development Plan (WNDP) (2015-2028) also advise the following:

*Wirksworth fosters innovation and local people understand that contemporary design could contribute diversity and interest to the town. It is often difficult for people, including decision-makers, to recognise quality in innovative forms of development and that may lead to developments being deemed unacceptable. In some circumstances, it can be as acceptable as more traditional forms and is often preferable to pastiche.*

*It will not necessarily be out of character in marginal cases to favour the innovative. There is a commitment to being a lowcarbon town; designs with innovative, low carbon technology may help to move towards that aim. They may exceptionally be permitted in cases where the innovative technology requires innovative design. It will still be necessary for the development to take its lead from the Character Guidance and to seek to achieve twelve BfL12 greens. Policy NP2 allows for such cases.*

- 7.5 This commitment to providing low carbon development is reflected in Policies S1 and PD7 of the Adopted Local Plan (2017) and is an underlying aim of development planning as set out in the NPPF. The manner in which this development seeks to address these aims is reflected upon below.
- 7.6 In addition, Policy NP5 of the WNDP requires that new dwellings be restricted to principal dwellings. To this end, it should be noted that the applicants agree to both dwellings being built for main occupancy, and planning conditions restricting holiday use or the dwellings being used as secondary homes would be accepted. Furthermore by moving to the proposed development, the clients would be vacating two larger dwellings suitable for family occupation, complete with facilities for home working.

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

- 7.7 The proposed design of the building is 'contemporary' and the evolution of the final design has been set out in the submitted documentation. This has arrived at a pair of dwellings that are located/positioned/orientated and are of a scale, height and form that is based on a detailed, contextual/setting assessment and analysis of the site and the wider area.
- 7.8 It is considered that the proposed development of this open garden land would not strictly 'preserve' as this is defined as maintaining a building or area in its original or existing state. However, the NPPF identifies 'enhancement' in referring to new development within Conservation Areas and a requirement that such new development should make a positive contribution. It is considered that the location of the proposed development within this site has been carefully considered in detail and that its physical impacts, as a result of its scale, massing and form, on the surrounding area and context has been minimised to an acceptable extent so as not to result in an adverse effect on the Conservation Area.
- 7.9 In its carefully considered architectural design, scale, mass and detailing, the new development is a distinctive and innovative piece of modern architecture. In this regard, it is considered that such architecture, and its physical impacts as outlined above, may be identified and considered as a new element of enhancement and a positive contribution to the architectural history and development of the town as an holistic entity.
- 7.10 There is a reference in the initial submission to the external cladding to be 'red facing brick'. Whilst red brick as a building material is prevalent within the Wirksworth Conservation Area, it is considered that in this specific context and setting that this is unlikely to be appropriate.

Red brick is used on some buildings in the immediate locality, such as the nearby converted chapel on The Dale and the 'winery' building on the site. The use of red brick forms part of the evolution of the town, where periodic development used red brick in their development and modest outbuildings used such a material as subservient structures.

- 7.11 However, it is considered that the proposed building is neither of these in its design and therefore a more contemporary form of material is considered appropriate to reflect moreso upon the contemporary nature of the building. It is suggested, therefore, that a contemporary use of natural stone may be a more acceptable alternative and one which is likely to have a greater affinity to its context or a brick that achieves the same aim but without trying to reflect upon the use of red brick as used in the more traditional building types and pastiches of such within the town. This has been agreed to by the applicants and it is considered that the final details of the stone walling materials can be addressed as a condition of any grant of planning permission, in discussion with Officers and with the presentation of a sample panel before any facings are introduced to the building.
- 7.12 An objection has been raised having regard to two previous decisions by the District Council to refuse planning permission for the development of green spaces in the general vicinity of the site (12/00656/FUL at land opposite 52 Greenhill and 13/00569/FUL at 27 Greenhill; these decisions were upheld by the Planning Inspectorate based on the contribution such spaces made to the character and appearance of the Conservation Area.
- 7.13 Planning application 12/00656/FUL was refused permission as it was a modest garden space that would have largely been filled with a building and the sense of space significantly eroded. Planning application 13/00569/FUL was refused given the height and architectural detailing of the building and its impact on the setting of the Grade II\* listed Babington House. The Planning Inspector considered that the development was subdued in character and would be in keeping with the surrounding area but would nevertheless significantly erode the character and appearance of the Conservation Area. However, the Inspector recognised that the outbuilding on the site, despite its appearance, only had a limited impact on the openness of the garden area it served. Therefore, there are clearly concerns with regard to any development diminishing the open spaces that are found throughout the Conservation Area and the contribution they make to its historic character and appearance.
- 7.14 However, whilst having regard to previous Appeal decisions, each application needs to be considered on its own merits and in its particular context. In the case of this current application, the development is proposed to be set down behind walls in a corner of the site and some 70% of the site will remain as open, garden space. Given the size of the garden, it is not considered that the sense of space will be significantly eroded and the green roofs will also help to retain the sense of space of the site when viewed from the wider Conservation Area. To this end, it is not considered that the development warrants direct comparison with the above planning applications which were dismissed at Appeal.

#### Impact on Archaeology

- 7.15 A Heritage Statement has been submitted with the application. Whilst having regard to the comments of Wirksworth Archaeological Society, comments have also been provided by the County Archaeologist. It is advised that, in relation to below-ground archaeology, the site is just outside the area defined in the extensive urban survey of Wirksworth's historic medieval core.
- 7.16 The heritage impact assessment suggests that Crown Yard itself could have functioned as a 'back lane' bordering the backs of the medieval plots on West End. However, the County Archaeologist advises that the medieval layout and sequence within the town is complex and imperfectly understood, and the origins of the town even more so. It is possible that the site could lie within medieval backplots, or that the deeper stratigraphy and sequence could

help address broader research questions about the origins of Wirksworth. However, it is advised that the Heritage Impact Assessment is correct in noting that the terracing of the site may well have impacted on earlier remains, although conversely the cut-and-fill of terracing can also create pockets of preservation.

- 7.17 To summarise archaeological potential, the County Archaeologist advises that there may be remains of the post-medieval cottages and a bowling green, medieval backplot archaeology, and of the general formation processes of the early town. However, later activity may have caused a significant degree of truncation and disturbance. Therefore, the County Archaeologist does not consider that the archaeological potential of the site is an 'in principle' consideration requiring pre-determination archaeological work. However, as there is an archaeological interest in the site, it is advised that this should be adequately investigated and recorded before development, secured by planning conditions in line with NPPF para 199, is commenced. This should take the form of archaeological evaluation (trial trenches and/or trial pits) to assess significance and preservation, followed by additional excavation and recording in the event that significant remains are found within the site. Conditions can be attached to any grant of planning permission in this respect.

### Trees and Landscaping

- 7.18 The proposals have been assessed by the District Council's Arboriculture and Landscape Officer. It is advised that an Arboricultural Method Statement (to be prepared to the guidelines of BS5837:2012) is required to demonstrate how retained trees located within the site and up to 15m beyond the red line boundary would be protected from harm during development. However, there are few orchard trees within proximity to the proposed building but it is considered that other trees can be protected during construction. The potential loss of the trees in proximity to the building is not considered a substantive reason for refusal of planning permission but it is considered that the submission of an Arboricultural Method Statement can be a condition of any grant of planning permission, to include details of tree protection during construction of those trees within the site which need not be affected. Any trees proposed to be removed will need to be replaced with other trees and this can be subject to a landscaping condition.

### Climate Change

- 7.19 The proposals seek to address climate change to meet the aims set out in the Local Plan and Neighbourhood Development Plan. The applicants advise that the design and placement of the dwellings has evolved with a consideration for the environmental impact of the development. It is proposed to incorporate sustainable materials, ensuring super-insulated homes of very low air leakages and free of thermal bridges. In addition, triple glazed windows would be located on the appropriate facades to maximise the use of solar gains to contribute to internal heating, whilst also protecting against overheating. It is proposed that all materials will be chosen with a consideration for their environmental impact. This will include responsible sourcing, from the locality where possible, as well as consideration for their durability and suitability for ensuring fabric energy efficiency targets are achieved. Both dwellings are designed with bright and airy interiors to create healthy living environments. The orientation of the building allows natural light into the building and the garden area will benefit from sunlight throughout the day.
- 7.20 The applicants advise that, in the detailed design, an appropriate level of insulation shall be used to attain fabric efficiency targets as well as sufficient sound insulation. It is advised that the proposed green roofs will have excellent noise attenuation. Careful specification of thermal or acoustic foamed insulants will ensure that substances used in their manufacture and installation meet or exceed maximum GWP (Global Warming Potential) levels as defined in the Code assessment criteria. It is intended that space heating, and hot water

demands, will be entirely met by alternative renewable sources of energy. This will mean the use of fossil fuels will not be required and nitrogen oxide emissions as the result of the development will not be of concern.

- 7.21 It is proposed to generate sustainable energy from renewable sources, and other technology in order to minimise the development's energy requirements and carbon emissions. The dwellings will include air source heat pumps, mechanical ventilation with heat recovery and a green roof. The greater insulation offered by green roofs can reduce the amount of energy needed to moderate the temperature of the buildings, as roofs provide the greatest heat loss in the winter and the highest heat gain in the summer. As the dwellings would be partially sunk into the ground, this will ensure that the lower sections have the higher thermal mass that will increase overall heat retention. Each dwelling includes a studio space, in addition to a bedroom, suitable for home working in the growing climate of flexible working, as well as sufficient external space for cycle storage.
- 7.22 A sustainable approach to water management is proposed. The dwellings will be designed to promote minimal use of mains water and opportunities will be taken for storage, diversion and management of water by maximising harvesting and preserving rainfall and reuse of domestic water. A Water Efficiency Calculation shall be utilised to assess internal water consumption which is a mandatory assessment criteria for meeting requirements of the Building Regulations Approved Document Part G. Typical water consumption for each house (measured in litres per person per day) would not exceed current national standards. Water reducing fittings, such as flow restrictors, may be fitted in taps and showers to assist with control of flow rates. The garden space also provides opportunity to capture and store rainwater for irrigation or other non-potable uses.
- 7.23 The proposed site is situated within a Flood Zone 1 area, which means it has a low probability of flooding. Appropriate management of surface water run-in is proposed in order to reduce the development's impact on the immediate surroundings. The green roofs will also reduce surface water run-off.
- 7.24 The development will provide ample space for storage of non-recyclable and recyclable waste. The development will be able to engage in the existing waste collection strategy serving the neighbouring properties. The site will continue to have sufficient green space, following the development, for composting. Construction site waste would be managed appropriately. Where possible, existing materials are proposed to be reused in the process of repair and reinstatement of the existing boundary walls.
- 7.25 The existing site is home to several fruit trees and used as a garden, growing flowers, fruit and vegetables. The applicants advise that the ecological value of the site is not under threat as the site will remain as a garden; drawing links from broader landscapes and the natural environment, while also providing fruit and vegetables to add to the sustainability of this garden plot. The proposed green roofs, 'living steps' of external space, and restoration of the historic vine house will further enhance the environment for nature to thrive. The green roof system will require a high quality water-proofing, root repellent system, drainage system, filter cloth, a lightweight growing medium, and plants, and will sustain a variety of plants and invertebrates.
- 7.26 Whilst there is a desire to also ensure that the building meets the requirements for Building for Life, this cannot be reasonably expected to be provided beyond the requirements for building regulations. The site constraints also mean that the building has to be set partially below the existing land level and, to accommodate this, level access cannot be provided.
- 7.27 The site is also in a sustainable location, within close walking distance to the town centre and its facilities, which may limit the use of the car. To this end, given all the above measures, it is considered that the proposal is a relatively sustainable form of development

and that the applicants have given regard to climate change in developing the proposals and that this accords with the Climate change Policies of the Adopted Local Plan and Neighbourhood Plan.

### Highway Matters

- 7.28 Local residents have raised concern with regard to access to the site for construction vehicles, parking of site operatives, parking for the residents of the proposed dwellinghouses and the impact on existing parking facilities.
- 7.29 The Local Highway Authority has considered the constraints of the site and its potential for development. As such, in view of the location of the properties, it is recommended that conditions are attached with regard to the provision of space within the site curtilage for the storage of plant and materials and site accommodation and a construction traffic management plan/statement be submitted for approval.
- 7.30 The applicants have advised of their desire to use the adjacent Rydes Yard car park which is subject to a waiting list for its usage. The District Council's Neighbourhoods Manager has advised that the District Council has not provided parking spaces to the applicants but the proposed properties would fall within the catchment area for eligibility in the permit scheme. There is no guarantee that parking spaces there will become available in the foreseeable future, as turnover of permits is extremely low. In addition, the pedestrian right of access only down to the car park is being considered by DDDC Legal Services. To this end, it is considered reasonable that no access is provided to the car park until such time as there may be a requirement for such and that a condition can be applied to seek to reinstate the collapsed retaining wall in the meantime.
- 7.31 Concern has been raised that the relevant notifications do not appear to have been made as only Certificate 'A' has been completed. However, the District Council is fully aware of the applicants desire to utilise the car park for access and this is a matter that will have to be addressed with the District Council in submitting details to demonstrate the construction access methodology for the site which will also have to have the agreement of the Local Highway Authority. It is considered unnecessary to include public footpaths within application sites and any works within, or involving access along such, will require the separate approval of the County Council as necessary.

### Impact on Amenity

- 7.32 The dwellings are proposed to be partially set into the ground to provide the level of accommodation to meet the applicants' requirements and in order to set the building down in the site to seek to minimise its impact within the site contextually with neighbouring residential properties and views across the site from public vantage points.
- 7.33 The nearest dwelling is to the north of the site at 8 Bowling Green Lane and the occupier has raised significant concern with regard to how the development may impact on their privacy and outlook. The neighbour's property is raised above the application site by some 4.3m and has a boundary fence of 1.8m in height. However, the actual ground floor level and outside decked area allows for direct overlooking of the application site. The windows to this extended element of the dwellinghouse have been provided as four large glazed sections. The extension to this property should not be seen to stymie development of the site, albeit regard has to be given to these windows existing and the impact of the development upon them.
- 7.34 The applicants have detailed sight lines which show that the aspect from the neighbour's windows will remain largely intact. The neighbour has submitted a photograph detailing the existing, modest buildings that are currently on the site of the proposed development can be

viewed as can much of the application site. As such, an assessment has to be made as to the harm to the amenity of the neighbour, but also to that of the amenity of overlooking the site, as it currently is, and to the applicants/occupiers of the proposed dwelling if approved.

- 7.35 The neighbour's photograph demonstrates that they can overlook the application site from their rear windows and raised decking area. This could be viewed as causing some harm to the amenity of the application site. This would be addressed to some extent with the flat roof of the proposed building intervening in views directly overlooking the site but would not intervene significantly in outlook or views across the townscape. In response to concerns over varying roof heights, the applicants have submitted a typical section cut through the entire site running east-west.
- 7.36 It is advised that the drawing has been produced using accurate measured topographical survey data and includes the neighbouring plots of 8 Bowling Green Lane to the west and The Old Tinsmiths to the east. The site section indicates the proposed positioning of the scheme. The building height has been assessed and a condition can be attached to any planning permission that the overall height of the building shall not exceed a height of 400mm above the retaining wall taken on a horizontal plane.
- 7.37 From this drawing, it is demonstrated that the proposed dwellings would not impede the horizontal views from either the kitchen or living spaces of No.8 Bowling Green Lane. The general easterly view will be maintained and would still take in the roof of the Old Tinsmiths and beyond to the town and far landscape. The applicants acknowledge that the diverse roof scape of Wirksworth is a feature of the town and the view across Wirksworth, with the rooftop of the Town Hall and Church tower, is a key viewpoint and is a view that the proposal would not harm. The green roofs would be planted with meadow grasses and wildflowers and, when viewed from 8 Bowling Green Lane, the open foreground will be maintained and would enhance the privacy when overlooking the application site from Bowling Green House.
- 7.38 In terms of the proposed rear facing windows, their tops would be partially above the height of the retaining wall. However, it is considered that these would only allow views into the sitting room of neighbour when standing in the window given that these windows are set below and given the intervening fence. It will allow for the neighbour at Bowling Green Lane to look into the bedrooms. Nevertheless, it is considered appropriate to require these windows to have frosted glass to prevent a loss of amenity to the occupiers of the existing and proposed dwellinghouses.
- 7.39 With regard to the maintenance of the grassed roof, this will mean that the occupiers of the proposed dwellings will have to tend to the roof from time to time, although this would not be expected to as regular as one may tend a flower bed or a lawn. It is considered the period of time required to undertake such management is not of such an imposition on the neighbouring property to justify a reason for refusal of planning permission. However, before the roof is grassed, it is considered that details of the proposed planting are submitted for consideration by the Local Planning Authority to ensure the appropriate greening of the roof in terms of plant longevity and level of maintenance.

### Conclusion

- 7.40 There are several matters of concern arising from the application. Local residents raise objection to the character and appearance of the proposed development and the erosion of green open space which serves to contribute to the character and appearance of the Conservation Area. This is a characteristic which has been given significant weight by the District Council and Planning Inspectors considering development proposals in other parts of the Conservation Area. However, the site is well contained, with limited views into it from the public realm. The proposal is to develop approximately 30% of the space and the

dwellings have also been designed having regard to those views in seeking to assimilate with the flat site, as reflected upon with the flat, grassed roof design. To this end, it is considered that the space would not be so eroded to justify a refusal of planning permission in this instance.

- 7.41 It is appreciated that this would be a development with a modern character and appearance. However, whilst this could be considered a ‘stealth’ house, as views of it will be limited, it is not a pastiche of previous development in the town and is a unique building, of its period, and would form an interesting part of the town’s historic evolution without imposing on that underlying historic characteristic recognised in the Conservation Area designation.
- 7.42 There are concerns with regard to the impact on highway safety and car parking provision. However, these matters have been considered by the Local Highway and they have no objections subject to appropriate conditions with regard to how the site development process.
- 7.43 Concerns have been raised with regard to amenity, particularly with regard to the outlook from 8 Bowling Green Lane. This has been considered by the applicants in their submission and they propose to set the building into the ground. It is considered reasonable, given the proximity of the proposed dwelling to the retaining wall to the rear (west of the site) that a structural survey is provided prior to any works taking place to excavate and provide foundations in this area and, as the site is flat having been hewn out of sloping land around it, consideration needs to be given to the sub-strata. It is vital that the building is provided at the levels detailed on the submitted drawings which show its interrelationship with the retaining wall and neighbour fence. To this end, it is considered that a condition is justified to ensure that the height of the building does not go beyond that detailed contextually with these existing boundary features.
- 7.44 Planning policy in relation to heritage assets does not preclude change or development as this can occur without causing harm. Overall, it is considered that the building will be an enhancement of the Conservation Area, not seeking to preserve this in aspic, but being a development of its time and forming part of the evolution of the Conservation Area and making a contribution to it. Given the above, it is recommended that planning permission be granted subject to conditions.

## **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 and the additional information received on 13<sup>th</sup>, 19<sup>th</sup> and 29<sup>th</sup> May 2020 except as amended Drawings No. 449-P05, P06 and P07 and Sk03\_ET\_200608 received on 11<sup>th</sup> June 2020 and except insofar as may otherwise be required by other conditions to which this permission is subject.

Reason:

To define the permission and to ensure the satisfactory character and appearance of the development to comply with Policies S1, S3, PD1, PD2 and HC8 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

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

- a sample of the facing material;
- manufacturers details of the windows and doors, to include the depth of recess in the openings (which should be a minimum of 100mm deep on the existing building unless otherwise agreed in writing by the Local Planning Authority);
- details of the rainwater goods; and
- details of the location and appearance of any meter boxes.

The development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure the satisfactory character and appearance of the development to comply with Policies S1, S3, PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

4. Notwithstanding the details included on the submitted drawings/in the associated documents, concurrently with the submission of a sample of the walling materials, a 2 square metre sample panel of those materials and type of pointing (mortar mix and method of application) to be used shall be erected on site for inspection before works commence on the construction of the exterior walls of the buildings. The development shall thereafter be constructed in accordance with the approved details.

Reason:

To ensure the satisfactory character and appearance of the development to comply with Policies S1, S3, PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017), Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

5. The first floor bedroom windows on the rear (west elevation) of the dwellings shall be fitted with a frosted glazing, a sample of which shall be submitted to and approved in writing by the Local Planning Authority and which shall thereafter be fitted as such prior to the first occupation of either dwelling.

Reason:

To safeguard the amenity of occupiers of the dwellings to comply with Policies S1, S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

6. Notwithstanding the details included on the submitted drawings/in the associated documents, 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) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
- e) details of the species of plants/grasses proposed to the 'green roof' and a plan for the management of the roof;
- f) means of enclosure;
- g) hard surfacing materials;



- h) retained historic landscape features and proposed restoration, where relevant, and to include the retaining walls.

Reason:

To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features, and to ensure satisfactory levels of amenity, in accordance with Policies S1, S4, PD1, PD2 and PD6 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

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 dwellings 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 landscaped setting for the development in accordance with Policies S1, S4, PD1, PD2 and PD6 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

8. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

Reason:

To ensure a satisfactory landscaped setting for the development in accordance with Policies S1, S4, PD1, PD2 and PD6 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

9. No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2005): Trees in Relation to Construction, has been submitted to and approved in writing by the Local Planning Authority, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

Reason:

To ensure a satisfactory landscaped setting for the development in accordance with Policies S1, S4, PD1, PD2 and PD6 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

10. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, and site accommodation, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason:

In the interest of highway safety and to safeguard the amenity of local residents.

11. No development shall take place, including any works of demolition until a construction traffic management plan/statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
- parking of vehicles of site operatives;
  - routes for construction traffic, including abnormal loads/cranes, etc;
  - delivery arrangements;
  - hours of operation;
  - method of prevention of debris being carried onto highway;
  - pedestrian and cyclist protection; and
  - proposed temporary traffic restrictions.

Reason:

In the interest of highway safety and to safeguard the amenity of local residents.

12. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
- i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) provision to be made for analysis of the site investigation and recording;
  - iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) provision to be made for archive deposition of the analysis and records of the site investigation; and
  - vi) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

The development shall take place in accordance with the approved archaeological Written Scheme of Investigation.

Reason:

To ensure the satisfactory archaeological recording of the site to comply with Policies S1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

13. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under Condition 12 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

To ensure the satisfactory archaeological recording of the site to comply with Policies S1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017).

14. Notwithstanding the details on the approved drawing, the roof to the central, two storey section of the dwellinghouses shall not exceed a height of more than 400mm above the west-east horizontal plane of the retaining wall to 8 Bowling Green Lane.

Reason:

To ensure the satisfactory character and appearance of the development and to safeguard the amenity of the occupiers of 8 Bowling Green Lane to comply with Policies S1, S4, PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028).

15. Prior to any excavation taking place on the site, other than exploratory investigation, a report detailing the structural integrity of the retaining wall to 8 Bowling Green Lane, any measures required to safeguard that property during the construction works of the development shall be submitted to an approved in writing by the Local Planning Authority and the works shall thereafter be carried out in full accordance with the approved details.

Reason:

To ensure adequate measures are in place, as necessary, to safeguard the neighbouring property.

16. 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 any 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 building and to safeguard the amenities of neighbouring residents to comply with Policies S1, S4, PD1 and PD2 of the Adopted Derbyshire Dales Local Plan (2017) and Policies NP1 and NP2 of the Wirksworth Neighbourhood Development Plan (2015-2028)

17. The dwelling hereby approved shall only be occupied as a primary residence and shall not be utilised as a second home or for holiday accommodation.

Reason:

To protect local housing stock to comply with the requirements of Policy NP5 of the Wirksworth Neighbourhood Development Plan (2015-2028).

## **NOTES TO APPLICANT:**

1. The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (England) Regulations 2012 as amended stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 27 of the Development Management Procedure Order 2015 for the discharge of conditions attached to any planning permission. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £116 per request. The fee must be paid when the request is made and cannot be required retrospectively.

2. The Local Planning Authority has, prior to the submission of this application, and during its consideration, engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame problems with the application relating to archaeology and the materials , design, scale and siting of the proposed development.

3. This decision notice relates to the following documents:

Drawing Nos. 449-P01, P02 and P03 received on 8<sup>th</sup> April 2020

Amended Drawing Nos. 449-P05, P06 and P07 and Sk03\_ET\_200608 received on 11<sup>th</sup> June 2020

Design and Access Statement received on 8<sup>th</sup> April 2020

Additional Information and Plan received on 13<sup>th</sup> May 2020

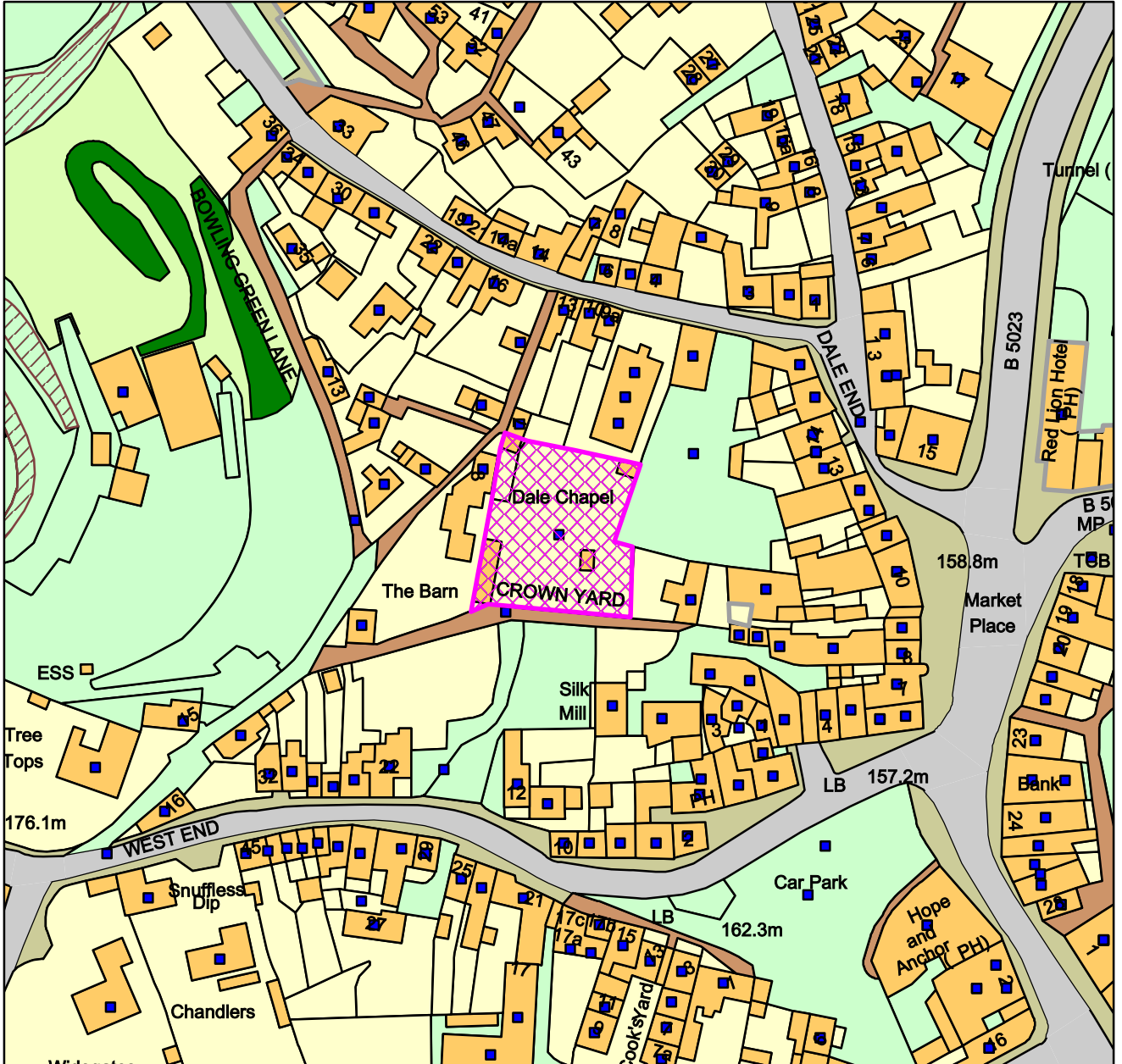
Additional Information received on 19<sup>th</sup> May 2020

Additional Information and Plan received on 29<sup>th</sup> May 2020

Heritage Impact Assessment (Mel Morris Conservation) dated 18<sup>th</sup> June 2019 received on 8<sup>th</sup> April 2020

20/00295/FUL

Land North of Crown Yard, Wirksworth



Derbyshire Dales DC

1:1,250

Date: 09/07/2020

100019785

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

## 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/19/00082	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/20/00003	Installation of solar panels to roof	13 Church Street Ashbourne Derbyshire DE6 1AE	Pending Consideration
ENF/20/00055	Unauthorised engineering works to facilitate a vehicular access and parking space onto a classified road, 23 Buxton Road, Ashbourne.	23 Buxton Road Ashbourne Derbyshire DE6 1EX	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
ENF/20/00030	Breach of Condition 24 (Tree Protection) of planning approval 17/00250/REM and damage to protected trees	Land South Of Leys Farm Wyaston Road Ashbourne Derbyshire	Pending Consideration

## Brailsford

ENF/17/00058	Unauthorised erection of replacement fencing around boundary of South Lodge, Long Lane, Longford, Derbyshire	South Lodge Long Lane Longford Derbyshire DE6 3DS	Pending Consideration
ENF/18/00009	Unauthorised building works to barn at West Mammerton Farm, Sutton Lane, Longford	Buildings At West Mammerton Farm Sutton Lane Longford Derbyshire	Pending Consideration
ENF/18/00138	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/19/00062	Creation of new fishing lake	Birch House Fishing Lake Derby Lane Ednaston Derbyshire	Pending Consideration
ENF/19/00063	Unauthorised building of hay store. Building in different location to that approved under 16/00946/AGR.	Land North Of Willow Croft New Road Mercaston Derbyshire	Pending Consideration
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/20/00037	Installation of velux roof lights	The Lodge Painters Lane Ednaston Derbyshire DE6 3BA	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/18/00196	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/20/00028	Siting of 1no. caravan/ mobile home	Land East Of Turlowfields Lane Hognaston Derbyshire	Pending Consideration

## Clifton And Bradley

ENF/19/00151	Alterations to bridleway including resurfacing to create access track, recessing of gateway and tarmac of entrance onto Sides Lane	Snelston BW 3 Sides Lane Snelston Derbyshire	Pending Consideration
ENF/19/00159	Formation of a new access off a Classified Road	The Flatts Wyaston Road Ashbourne Derbyshire	Pending Consideration
ENF/20/00005	Clearance of hedgerow at 'The Firs' residential development and erection of fence - Related planning applications 16/00340/OUT and 18/00699/REM	Land At The Firs Main Road Wyaston Derbyshire DE6 2DR	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/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/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
ENF/20/00010	Change of use of land to site a crane and condition 4 (landscaping works to screen mounding) of planning permission 11/00806/FUL not fully implemented	Steve Foster Crane Hire Units 1 To 3 Derby Road Doveridge Derbyshire DE6 5JU	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/18/00206	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
ENF/20/00014	Breach of condition 11 (hard and soft landscaping scheme) of planning permission 18/01237/REM - Removal of existing hedging	Land East Of Les Ardennes 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 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/19/00086	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
ENF/20/00015	Unauthorised erection of fence adjacent to a classified road, A6, and within close proximity to protected trees (DCCTPO/123/A1).	Rock Cottage Rock Lodge 69 Derby Road Cromford Derbyshire DE4 3RP	Pending Consideration
ENF/20/00020	Construction of raised platforms	Weavers Cottage 45 Yeoman Street Bonsall Derbyshire DE4 2AA	Pending Consideration
ENF/20/00035	Externally illuminated signage	The Coven The George Centre 30 North Parade Matlock Bath Derbyshire DE4 3NS	Pending Consideration
ENF/20/00088	Installation of extractor flue	Route 66 134 North Parade Matlock Bath Derbyshire DE4 3NS	Pending Consideration

## Matlock All Saints

ENF/18/00042	Unauthorised alteration of shop frontage	Turkish Delight 57 Dale Road Matlock Derbyshire DE4 3LT	Notice Issued
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ENF/19/00044	Erection of verandah 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
ENF/20/00021	Unauthorised erection of single storey office building.	Ashworth Car Sales 15 Bakewell Road Matlock Derbyshire DE4 3AU	Pending Consideration

## 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/18/00178	The development is not in accordance with the approved plans.		Pending Consideration
ENF/19/00008	Use of land for the parking of vehicles, unloading and storage of aggregates, unloading and storage of domestic and business waste and as a personal allotment with a greenhouse	Land To The Rear Of Sunnyside Farm Riber Road Riber Matlock Derbyshire DE4 5JU	Pending Consideration
ENF/19/00015	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
ENF/20/00012	Unauthorised erection of garage within the domestic curtilage	20 Lynholmes Rise Matlock Derbyshire DE4 3DX	Pending Consideration
ENF/20/00044	Use of land adjacent Hilltop Farm for storage of domestic and commercial waste, vehicles, equipment and scrap	Land Adjacent Hilltop Farm Alfreton Road The Cliff Tansley Derbyshire DE4 5FY	Notice Issued
ENF/20/00053	Internal window display / advertisement comprising a skull curtain	30B Matlock Green Matlock Derbyshire DE4 3BT	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
ENF/20/00006	Change of use of land to use for the stationing of caravans for the purposes of human habitation with associated building and engineering works comprising of the construction of amenity buildings, laying of hard surface and erection of fencing.	Land East Of Grove Lane Somersal Herbert Derbyshire	Notice Issued
ENF/20/00018	Unauthorised change of use of garage block to independent dwelling	Coton Wood Lodge Muse Lane Boylestone Derbyshire DE6 5AB	Pending Consideration

## Stanton

ENF/20/00062	Erection of stables, extension of residential curtilage and extension of access	Rowsley Barn Chesterfield Road Rowsley Derbyshire DE4 2EG	Pending Consideration
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## Winster And South Darley

ENF/20/00016	Construction of storage buildings approved under application code ref. 19/00525/FUL using corugated steel sheets to the walls finished in an unauthorised off white colour	H J Enthoven And Sons Darley Dale Smelter Oldfield Lane Warren Carr Derbyshire DE4 2LP	Pending Consideration
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## Wirksworth

ENF/17/00002	Unauthorised engineering operations to create a raised area	11 New Road Bolehill Derbyshire DE4 4GL	Pending Consideration
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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	Notice Issued
ENF/19/00140	Engineering works to garden area	Fountain House 13 Main Street Middleton By Wirksworth Derbyshire DE4 4LQ	Pending Consideration
ENF/20/00008	Unauthorised ground works to facilitate a car park and large plant training area.	Land To The North Of Jacksons Ley And Porter Lane Middleton By Wirksworth Derbyshire	Pending Consideration
ENF/20/00043	Two storey garden building not being built in accordance with approved plans (planning application reference number 19/01424/FUL)	24 Water Lane Wirksworth Derbyshire DE4 4DZ	Pending Consideration
ENF/20/00077	Unauthorised building works, consisting of demolition of outbuilding and erection of two storey side extension to dwelling at 5 Churchill Avenue, Middleton by Wirksworth.	5 Churchill Avenue Middleton By Wirksworth Derbyshire DE4 4NG	Pending Consideration

**Total Open Cases**

**89**

# Enforcement Investigations Closed



In the Month Prior to 10/07/2020

## Masson

ENF/20/00066	Erection of wooden structure in rear garden	38A Barnwell Lane Cromford Derbyshire DE4 3QY	Complaint Unfounded	22/06/2020
ENF/20/00067	Installation of a new fan	Kostas Restaurant 138 North Parade Matlock Bath Derbyshire DE4 3NS	Justification from Officer	25/06/2020
ENF/20/00085	Painting of tiles to front of building, use of building for the sale of ice cream and food and associated installation of facilities	Harry Halls Amusements 178 - 180 South Parade Matlock Bath Derbyshire DE4 3NR	Complaint Unfounded	06/07/2020

## Matlock St Giles

ENF/20/00091	Building plots 1-4 not being built in accordance with the approved plans, 15/00861/FUL.	Land South Of Bentley Bridge Chesterfield Road Matlock Derbyshire	Complaint Unfounded	06/07/2020
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## Winster And South Darley

ENF/20/00046	Alleged unauthorised building, not in accordance with approved plans, and burning of materials on site.	Thorntrees Oker Road Oker Matlock Derbyshire DE4 2JJ	Complaint Unfounded	10/06/2020
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## Wirksworth

ENF/20/00096	Party wall removed between 21 and 22 Mountford Avenue	21 - 22 Mountford Avenue Wirksworth Derbyshire DE4 4AT	Justification from Officer	07/07/2020
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**Total Closed Cases** 6

**NOT CONFIDENTIAL** - For public release

PLANNING COMMITTEE – 21<sup>st</sup> July 2020

**PLANNING APPEAL – PROGRESS REPORT**

Report of the Corporate Director

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
19/01090/FUL	Keepers Field, Bullhill Lane off Hill Cliff Lane, Ireton Wood	WR	Appeal dismissed – a copy of the decision is attached
19/00881/FUL	White Close, Longford Lane, Sutton-on-the-Hill	WR	Appeal dismissed – a copy of the decision is attached
19/00554/FUL	Old Barn, Riggs Lane, Marston Montgomery	HOUSE	Appeal dismissed – a copy of the appeal decision is attached
19/00423/FUL	North Farm, North Lane, Brailsford	WR	Appeal dismissed – a copy of the appeal decision is attached
19/00674/FUL	Blackbrook Lodge Caravan and Camp Site, Intakes Lane, Turnditch	WR	Appeal dismissed – a copy of the appeal decision is attached
19/00793/FUL	Land to the rear of Ash Tree Farm, Spend Lane, Ashbourne	WR	Appeal dismissed – a copy of the appeal decision is attached
19/00964/FUL	Cottage Farm, Longford Lane, Longford	HOUSE	Appeal dismissed – a copy of the appeal decision is attached
Central			
19/00148/OUT	Penzer House, Dale Road South, Matlock	WR	Appeal being processed
18/01175/FUL	Mooredge Farm, Knabb Hall Lane, Tansley	WR	Appeal dismissed – a copy of the decision is attached
19/01191/REM	North Park Farm, Whitworth Road, Darley Dale	WR	Appeal dismissed – a copy of the decision is attached

19/01321/FUL	The Cottage, Alfreton Road, The Cliff, Matlock	HOUSE	Appeal being processed
19/01429/FUL	Land adjacent 12 Water Lane, Wirksworth	WR	Appeal being processed
19/00954/FUL	The Mews, Wirksworth Hall Farm, Wash Green, Wirksworth	WR	Appeal being processed
19/00657/FUL	Darley Hillside Methodist Church, Moor Lane, Darley Dale	WR	Appeal dismissed – a copy of the decision is attached
ENF/19/00059	Land to the east of Kings Lot Wood, Longway Bank, Whatstandwell	WR	Enforcement notice quashed – a copy of the decision attached
18/00687/CLPUD	Building at Back Lane, Two Dales	WR	Appeal allowed – a copy of the appeal decision is attached

WR - Written Representations  
IH - Informal Hearing  
PI – Public Inquiry  
LI - Local Inquiry  
HH - Householder

**OFFICER RECOMMENDATION:**

That the report be noted.





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## Appeal Decision

Site visit made on 26 May 2020

**by S J Lee BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> June 2020**

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**Appeal Ref: APP/P1045/W/19/3243212**

**Keepers Field, Bullhill Lane off Hill Cliff Lane, Ireton Wood, Derbyshire DE56 2EA**

- 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 Martin Goodwin against the decision of Derbyshire Dales District Council.
  - The application Ref 19/01090/FUL, dated 18 September 2019, was refused by notice dated 4 December 2019.
  - The development proposed is described as “replacement of mobile home with permanent dwelling house (revision to permission granted under application ref. 18/08333/FUL)”.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

#### *Background*

3. The appeal relates to part of a field in the open countryside. It is accessed by a long private drive, which rises from its junction with the single track country lane, before dropping down sharply into the field. Within the field is the existing mobile home, plus some additional timber outbuildings, storage container, caravan and other paraphernalia, presumably associated with maintenance of the site and the appellant’s game rearing enterprise. The wider site is bounded by mature trees and hedgerows. The field stretches for some distance to the north east and the site slopes markedly in this direction.
4. The site is in an isolated countryside location where a new dwelling would not normally be permitted. However, permission was recently granted on appeal<sup>1</sup> for a rural worker’s dwelling that would replace the existing mobile home. The Council acknowledge that the principle of a rural worker’s dwelling has been established and have not sought to refuse permission on this basis. Their concerns relate entirely to the design of the dwelling. There is nothing before me to suggest the original permission could not be implemented in the event

<sup>1</sup> Appeal reference: APP/P1045/W/18/3213623

this appeal is dismissed. It therefore forms a realistic fallback position which is material to my decision. I shall return to this below.

### *Character and appearance*

5. The development would be a two-storey dual pitched roof timber clad dwelling. The appellant has clarified that the intention is for the roof to be metal sheeting, although what form this would take is not explained in any detail.
6. While the use of timber may be found on parts of buildings in the area, there is little evidence to suggest that entirely timber clad dwellings of this nature are part of its general character or the local vernacular. In this case, the use of timber would not form part of any complementary detailing or accent. Rather, it would be used exclusively on all external walls. Based on what is before me, I conclude that the extensive use of timber for a dwelling of this type would be uncharacteristic of area and somewhat incongruous.
7. The appellant has drawn my attention to examples of nearby barn conversions which he considers support the design and use of timber. I have not been provided with full details of all of these and cannot conclude with any certainty that they are directly comparable to what is before me. I was however able to view the conversion near to the junction of Hill Cliff Lane and Bullhill Lane. This building's external walls are made up of a mixture of timber and blockwork. It is therefore distinctly different to what is proposed here and does not support the exclusive use of timber cladding.
8. Notwithstanding the appropriateness of the materials, in general the proposed design lacks a coherent identity. The entirely timber clad construction would be typical of a chalet. The incorporation of the covered balcony and veranda would be consistent with this approach. However, the design would not reflect the broad, low pitched roof often associated with such dwellings. The dual pitched roof, footprint and proposed metal sheet roofing would be more reminiscent of an agricultural building. However, the aforementioned balcony and large protruding porch in the front elevation are overtly domestic features that would be atypical of a barn. I am also unconvinced that the height and proportions of the dwelling would be entirely consistent with that of many typical agricultural buildings. All of these factors would significantly dilute and detract from any attempt to reflect an agricultural conversion. The development would not successfully reflect either one architectural style or another.
9. Furthermore, the windows in the front and rear elevations would appear small and under proportioned in relation to the overall scale of the walls. At first floor level, the windows would be located high on the wall just under the eaves and would be arrayed centrally in the elevation. There would be no windows to the left of the door on the ground floor. There would therefore be large expanses of blank timber wall, with little to break up the overall mass of the timber cladding or the considerable bulk of the building. Similar problems would exist on the front elevation where there are no windows at all on the first floor. The impact of this would be exacerbated by the general lack of articulation in the building and the high floor to eaves heights. This would result in a high solid to void ratio that would appear unbalanced and ill conceived. The porch would break up the front elevation to an extent, but this would in itself be a large and bulky protrusion that would not necessarily complement the rest of the building. In my view, this would not result in a good standard of design.

10. No detailed information has been provided about the intended metal roofing material. The plans do not provide much clarity in this regard. The Council has suggested a condition requiring the approval of materials. However, this would only normally be appropriate where there was certainty that the condition could be discharged. While not determinative in its own right, the lack of information on the roofing materials and how this would complement the timber cladding adds to my concerns about the overall design and appearance of the building.
11. The Council has raised concerns over a lack of information relating to the extent of any cut and fill that would be needed to accommodate the dwelling. The appellant has indicated that a depth of 1.5 metres would be necessary. However, no plans have been provided to illustrate how this would be addressed and whether it would have any effect on the character or appearance of the site and the visual impact of the development. The lack of certainty relating to this issue makes it more difficult to fully assess the impact of the development. This also adds to my concerns.
12. The siting of the dwelling, the topography of the site and the extent of intervening landscaping means that the development would be well screened. The dwelling would be a prominent feature within the site itself, particularly when viewed from the lower ground. However, it would not be visible in short or medium distance views from outside the site. The dwelling is also unlikely to be highly prominent from longer distance views, particularly during the summer months.
13. The visual impact of the development would therefore be localised. However, both local and national policy require development to be of a good standard of design. There is nothing to suggest that poorly designed and unsympathetic buildings are inherently acceptable if they are not visually prominent. Importantly, the Inspector in the previous appeal stated that the isolated and secluded nature of the site would not justify a development of a scale, size and appearance which would not reflect the prevailing character and appearance of the wider countryside. In my view, the development would fall into this category.
14. Therefore, while the self-contained nature of the site weighs in favour of the proposal, it does not adequately mitigate the failings of the design. I find that the development would not constitute an acceptable quality of design and would be an unsympathetic and discordant feature. It would therefore be harmful to the character and appearance of the area and be in conflict with policies S4, PD1 and PD5 of the Derbyshire Dales Local Plan (DDLDP)(2017). These seek, amongst other things, to ensure development is of a high quality design that respects and preserves the character and identity of the Derbyshire Dales landscapes and that materials are sympathetic to landscape character.
15. There would also be conflict with the National Planning Policy Framework. In particular, paragraph 127 which seeks, amongst other things, to ensure development is visually attractive as a result of good architecture and sympathetic to local character and history.
16. There would be no conflict with DDLP Policy HC13 in relation to the principle of a rural worker's dwelling on the site. However, this does not alter the conflict with the development plan when taken as a whole.

## **Other Matters**

17. The principle of a rural worker's dwelling has been established. There is also nothing to suggest it would not be of an acceptable size to meet the relevant policy requirements for such a dwelling. However, this does not outweigh the harm identified above.
18. The permitted 'fallback' dwelling would sit on a different part of the site, be orientated differently to that proposed here and be of a significantly different design. Although three storeys, it would appear as a one or 1.5 storey building from some directions. This is owing to a lower ground floor and habitable space in the roof. This would differ significantly to the two storey appearance of the proposal.
19. The proposal would have a smaller floor area than the permitted scheme. However, owing to the difference in design, it would be likely to appear taller and bulkier than what has been permitted. While the permitted dwelling includes timber cladding in its design, this is broken up by the extensive use of gritstone on the lower ground floor and projecting gable. The broad low pitched roof profile is also significantly different, with the floor to eaves height being much lower than proposed here. The permitted scheme also has a greater degree of articulation. This ensures that the timber elements are substantially less dominant in the design. The use of a slate roof and stone would also be more sympathetic to the local area. The approved scheme is therefore a more coherent, visually interesting and sympathetic design than that before me. Accordingly, the fallback would be less harmful than the proposal and thus adds no weight in its favour.
20. The appellant has raised concerns over the way the Council considered the application. In particular, in relation to communication over the issue of additional information relating to levels. The appeal provided an opportunity to address this issue and I have covered the substantive matter relating to this above. The dispute with regard to communications is a matter between the parties and is outside the scope of the appeal. The same can be said for the appellant's general concerns over the Council's approach to other applications.
21. The appellant has suggested the application was made to address the Council's concerns with the original proposal. However, as this had the benefit of planning permission, there was no need to do this. As such, this has had no bearing on my decision. I acknowledge there have been no objections from any statutory bodies or other interested parties. Nevertheless, this does not alter my view that the dwelling would not constitute an acceptable standard of design.
22. Having regard to the foregoing, there are no material considerations that outweigh the harm caused or would justify a decision other than in accordance with the development plan.

## **Conclusion**

23. For the reasons given above I conclude that the appeal should be dismissed.

*S J Lee*

INSPECTOR



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# Appeal Decision

Site visit made on 26 May 2020

**by J Williamson BSc (Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> June 2020**

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**Appeal Ref: APP/P1045/W/20/3245305**

**White Close, Longford Lane, Sutton-on-the-Hill DE6 5JB**

- 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 J Bowler against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00881/FUL, dated 14 June 2019, was refused by notice dated 25 September 2019.
  - The development proposed is erection of a replacement dwelling.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. I note that since the determination of the planning application the appellant applied to the Council for prior notification of proposed demolition of 'White Close', ie the dwelling that is the subject of this appeal, Ref 19/01198/DEM. The Council concluded that its prior approval is not required for demolition of the property. I have taken this into consideration in reaching my decision.

## Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to siting, scale and design.

## Reasons

4. For planning policy purposes, the site is in the countryside. The surrounding landscape is characterised by expansive, relatively flat/gently undulating, open agricultural land, sub-divided by hedges and trees into field parcels. Residential properties are sporadically located along the network of local roads. The dwellings in the area tend to be of modest size, and although mainly two-storey there are several examples of one-and-a-half and single-storey properties. The appellant suggests that larger properties such as Suffield Manor set a precedent for development of properties that are larger than the modest dwellings in the area. However, I consider that large properties are the exception, rather the rule, in the surrounding area. The dwellings are primarily of simple design, often sited not far from the road in informal shaped curtilages. Many have benefitted from extensions, with such development appearing to have gradually evolved over time. The external materials used on

most properties in the area are red brick under clay tiled roofs, though several have rendered elevations.

5. Although the existing dwelling is of a size, design and sited such that it nestles comfortably in the landscape, alterations to it have been unsympathetic. As such, I consider the existing dwelling has a neutral effect on the landscape and the character and appearance of the area.
6. I note that the design concept is that of a converted range of traditional barns, based upon an award-winning build in Scotland. However, it does not readily follow that the proposed development would be acceptable with the open, rural landscape of Derbyshire.
7. The proposal would be sited such that it would substantially extend beyond the eastern curtilage of the site, up to the proposed site boundary. The built form would also press up to the northern site boundary. The ratio of built form to curtilage would be reversed from that of the existing, where the property covers a small proportion of the plot, to one where the proposed dwelling would cover most of the plot. The scale of the proposal is such that the building overall appears to be somewhere in the region of 3 times the size of the existing dwelling. Due to its siting, size and scale the proposal would fill an existing gap between the existing dwelling and the southern boundary of Suffield Manor. Bearing these factors in mind, I consider the proposal would erode the character and appearance of the landscape.
8. The appellant suggests that farmsteads are part of the surrounding landscape and that some have brick buildings that have been converted. However, such development is also the exception, rather than the rule. Furthermore, of the few conversions that exist in the area, they have not resulted in a substantial introduction of additional built form into the landscape. Additionally, the converted barn-style buildings I observed during my site visit have been sympathetically converted, retaining many of their original features, such as fenestration openings, which allows the original building to still be read. In contrast, many of the window openings in the proposed building are large with large, horizontally defined glazing panels and large chunky stone lintels. There is also little variation between roof ridges, eaves heights and roof pitches. Rather than being interpreted as a conversion of traditional barns, I consider that the proposal would read as a pastiche of such development, which would harm the character and appearance of the area.
9. In light of the above, with particular regard to the siting, scale and design of the proposed development, I conclude that the proposal would encroach into, and be out of keeping with, the character and appearance of the countryside. Consequently, the proposal would not accord with policies S4, PD1, PD5 and HC7 of the Adopted Derbyshire Dales Local Plan (2017). Collectively, these policies, among other things, do not support development that does not respect, preserve or enhance the character, appearance or local distinctiveness of the area. Nor would the proposal accord with paragraph 127 of the National Planning Policy Framework, which also requires development to be sympathetic to local character.

### **Other Matters and Planning Balance**

10. I note the appellant has drawn my attention to examples of planning permission having been granted for replacement dwellings in the area

comprising of modern houses replacing traditional cottages. I do not have the full details of these cases and therefore cannot conclude that they are directly comparable to the current proposal.

11. I also note that no issues have been raised in respect of highway safety, public right of way, ecology or living conditions, which are therefore matters that weigh in favour of the proposal. However, these matters do not outweigh the significant harm to the character and appearance of the area I have identified, which, in the context of local and national policy, attracts substantial weight.

### **Conclusion**

12. For the reasons outlined above, I conclude that the appeal is dismissed.

*J Williamson*

INSPECTOR



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## Appeal Decision

Site visit made on 7 January 2020 by G Sibley MPLAN MRTPI

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

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

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**Appeal Ref: APP/P1045/D/19/3238646**

**Old Barn, Riggs Lane, Marston Montgomery, Ashbourne, Derbyshire DE6 2FD**

- 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 Grayham Crawford against the decision of Derbyshire Dales District Council.
  - The application Ref: 19/00554/FUL, dated 14 March 2019, was refused by notice dated 14 August 2019.
  - The development proposed is described on the decision notice as 'modifications to approved barn conversion with insertion of new door and flue pipe, erection of stables and garage/store.'
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matter

3. In the interests of clarity, I have used the description of development given in the Decision Notice.

### Main Issue

4. The effect of the proposed development upon the character and appearance of the host dwelling and the surrounding area.

### Reasons for the Recommendation

5. The dwelling is a converted barn that is set back from the roadside, to the rear of a dwelling that fronts Riggs Lane. The dwelling is located within open countryside and set within open, attractive grounds. There is sporadic development along Riggs Lane with a number of agricultural and residential buildings visible within the street scene.
6. The proposed door would be located on the rear elevation of the barn and would provide access to the kitchen. The flue has already been moved and is in line with the other flue on the opposite side of the roof. The stables would be located within a separate parcel of land to the north west of the barn and would



be constructed from brown stained weatherboard with a felt roof. The stables would measure around 10.5 metres (m) wide by 3.6m deep with a height of around 3.5m. The garage/store would be located between the barn and the existing outbuilding. It would be constructed with shiplap wooden walls, with dark brown stain, and dark coloured metal deck roof.

7. The flue has been moved to a higher position on the roof and is in line with the other flue on the opposite side of the roof. Because the flue has only been moved a small distance and is not particularly prominent, on the rear elevation of the roof, the location of the flue does not harm the character or appearance of the dwelling.
8. The proposed stables would have the appearance of a rural building that would be seen within the context of the farms and other agricultural holdings within the area. The stables would be located within a separate field and would not encroach into the space around the barn. As such the proposed stables would not harm the character or appearance of the dwelling or its spacious setting which contributes to the rural character and appearance of the surrounding area.
9. The Conversion of Farm Buildings Supplementary Planning Document (2019) (SPD) notes that proposals for new doors to historically blank elevations would generally be resisted as they could compromise, and potentially harm, an inherent and distinctive characteristic of a farm building. The door would be on the rear elevation of the barn which faces the open countryside and would not be visible from the public domain.
10. Nevertheless, the rear wall appears to have historically been left undeveloped, other than where the previously unapproved door was built and then removed. As such, the inclusion of a door within this rear elevation of the building would introduce a domestic feature into a historically blank elevation which would be harmful to the modest character of the building which reflects its former agricultural use. Whilst a door was removed from the side elevation of the barn during the initial conversion and the proposal could be considered as a replacement for it, it is not considered that the need to provide an additional access to the kitchen is sufficient to outweigh the harm to the character and appearance of the dwelling.
11. The proposed garage/store would be located in close proximity to the converted barn. The introduction of another outbuilding on the site would undermine the uncluttered and modest character and appearance of the barn. When viewed from Riggs Lane, it would reduce the space around the barn which would be harmful to its existing open and spacious setting. Overall, I consider that the proposed garage/store would be harmful to the character and appearance of the host dwelling and the surrounding area.
12. Whilst I have found that the flue and proposed stables would not adversely affect the character and appearance of the dwelling and the surrounding area, this does not outweigh the harm that would be caused by the proposed door and garage/store. Therefore, the proposed development would be contrary to policies S1, S4, S9, PD1, PD5 and HC8 of the Adopted Derbyshire Dales Local Plan (2017) (LP) in so far as they seek to secure high quality, locally distinctive and inclusive design and resist development which would harm the character of the local landscape as well as protecting the countryside from inappropriate development. The policies also require that where buildings have been

converted to residential use that the building itself should not require additional extensions or alterations to be suitable for residential use. The proposal would also conflict with the SPD which is a material consideration in the determination of the appeal.

*Other matters*

13. The appellant has referred to other development that has been approved around Marston Montgomery. The dwellings are all located a considerable distance from the site and consequently the setting of those dwellings would be different to the appeal site. Furthermore, those proposals are not comparable with the scheme before me. Notwithstanding this, each case must be assessed on its own merits and I have determined the appeal based on the proposal before me and the circumstances of the appeal site.
14. Had my findings in relation to the main issue in this case been more favourable, it would have been necessary to address the comments from third parties in more detail. However, as I am dismissing the appeal and since it will not affect the overall outcome, I make no further comments on these matters.

**Conclusion and Recommendation**

15. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*G Sibley*

APPEAL PLANNING OFFICER

**Inspector's Decision**

16. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be dismissed.

*Sarah Housden*

INSPECTOR



## Appeal Decision

Site visit made on 3 February 2020

by **Alexander Walker MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26<sup>th</sup> February 2020

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**Appeal Ref: APP/P1045/W/19/3240153**

**North Farm, North Lane, Brailsford DE6 3BE**

- 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 D Newnes against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00423/FUL, dated 9 April 2019, was refused by notice dated 29 August 2019.
  - The development proposed is the conversion of agricultural building to ancillary residential accommodation and creation of parking area.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the existing building.

### Reasons

3. The appeal building comprises a single-storey, red brick building set within an agricultural complex including a farmhouse and converted farm buildings.
4. The building has a number of features typical of agricultural buildings of this design, including large timber door openings and a hayloft hatch on the east elevation, numerous small timber windows on the north and south elevations and a steep pitched roof. The largely unaltered appearance of the building and these design features make a positive contribution to the agricultural heritage of the building.
5. The proposal would involve the utilisation of existing openings on the north elevation and the retention of the hayloft hatch on the east elevation. The west elevation would not be altered.
6. Whilst part of the south elevation would retain existing openings, albeit substituting a small window for a door, it would also include the introduction of a large expanse of glazing that would accommodate approximately half the width of the elevation. This large expanse of glazing would fail to reflect the solid to void ratio found throughout the rest of the building, introducing an incongruous domesticated feature that would be significantly harmful to the simple, traditional agricultural design of the building.

7. I appreciate that certain alterations are necessary to ensure adequate internal living conditions, for example by providing sufficient outlook and natural light. However, there is no evidence before me that justifies the extent of this large glazed area on this basis.
8. The building would not be readily visible from public vantage points. Nevertheless, the character and appearance of the building is still appreciated from within the private confines of the site where the proposed harm would be apparent.
9. I have had regard to the large areas of glazing in the existing barn conversion adjacent to the appeal building. However, this is not as large as the glazing proposed, relative to the width of the elevation that it forms part of. Therefore, I do not consider that this weighs in favour of the proposal.
10. I find therefore that the proposal would significantly harm the character and appearance of the existing building, contrary to Policies S4, PD1 and HC8 of the Derbyshire Dales Local Plan 2017, which, amongst other things, seek to ensure that conversions positively contributes to an established local character and sense of place; all development is of a high quality design; and, the conversion does not have a detrimental impact upon the character and appearance of the building.
11. In addition, it would also be contrary to the Derbyshire Dales District Council's The Conversion of Farm Buildings Supplementary Planning Document 2019, which, amongst other things, states that the distinctive character and appearance of the original building should be retained in any conversion scheme/proposal and, therefore, sound justification (which does not constitute harm to character & appearance) for the inclusion/insertion of any new door and window openings would need to be provided. In this instance, such justification has not been demonstrated.

### **Other Matters**

12. The appellant has referred me to amendments to the scheme suggested by the Council during their consideration of the planning application. However, my consideration of this appeal has been based on the proposal before me.

### **Conclusion**

13. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR



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## Appeal Decision

Site visit made on 3 February 2020

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> February 2020**

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**Appeal Ref: APP/P1045/W/19/3240581**

**Blackbrook Lodge Caravan and Camp Site, Intakes Lane, Turnditch DE56 2LU**

- 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 V Hyland against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00674/FUL, dated 10 June 2019, was refused by notice dated 20 September 2019.
  - The development proposed is the use of administration block as holiday cottage.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

3. The appeal building forms part of a camping and caravan site comprising numerous static and touring caravans, amenity building and office set within in an open countryside location characterised by its spacious and peaceful setting.
4. The appeal building comprises a timber structure that is composed of two adjoining single-storey cabins. The building was stationed on the site to serve as an administration block for the camping and caravanning site. At the time of my site visit the internal arrangement of the building included a sitting room/kitchen area, bedroom, dressing room and bathroom. There was no evidence of it being currently used for administration purposes.
5. The building is largely screened from public views, located central within the wider site. However, it need not be visible from the public realm in order for it to have an effect on the character and appearance of the area. The building is clearly visible from within the site. Its rudimentary design lacks any architectural merit and detracts from the character and appearance of the area.
6. Policy S4 of the Derbyshire Dales District Local Plan (LP) 2017 permits the conversion and re-use of buildings in the open countryside in accordance with Policy HC8 of the LP.
7. Policy HC8 of the LP goes on to state that the conversion and/or re-use of existing buildings to residential use from other uses will be permitted where

specific criteria are met. Criterion b) states that 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. This is supported by the preamble to Policy HC8, which explains that in the countryside not all buildings are appropriate for conversion to a permanent open market residential use and that some buildings, having outlived their original purpose, are better demolished and the site returned to a green field. I acknowledge that the proposal would be for a holiday cottage. However, were I minded to allow the appeal it would effectively permit the change of use of the building to a dwelling, subject to an appropriately worded condition restricting it to being used only as a holiday cottage.

8. Policy HC8 supports paragraph 79 of the National Planning Policy Framework (the Framework) which seeks to ensure that the re-use of redundant or disused buildings enhances its immediate setting.
9. Policy EC8 of the LP supports tourism in the countryside but only when it is consistent with environmental objectives.
10. I acknowledge that the building is immune from enforcement action and administration facilities are provided elsewhere on the site. Therefore, the building is currently redundant. The appellant contends that the building will remain on site and therefore the proposal would have no impact on the character of the area. Be that as it may, criterion b) of Policy HC8 only permits the re-use or conversion of buildings that make a positive contribution to the character and appearance of its surroundings. Based on my own observations on site, due to its rudimentary design the existing building does not make a positive contribution to the character and appearance of its surroundings. Therefore, it fails to satisfy criterion b) of Policy HC8 of the LP. I note that this is a similar conclusion to the previous Inspector in respect of the appeal against the enforcement notice relating to the appeal building<sup>1</sup>.
11. Whilst the building may well remain on site and therefore continue to have no positive effect on the character and appearance of the surrounding area, permitting a change of use as proposed would only likely protract the harmful effect it does have and therefore would run counter to the objectives of the development plan and the Framework, which seek to ensure that development is sustainable.
12. The appellant contends that the building has the character and appearance of a chalet and therefore falls within the consideration of Policy EC9 of the LP, which relates to proposals for chalets, touring caravan and campsite developments. Whilst no definition of a chalet is presented to me, based on the subject matter of this particular policy, a chalet does not comprise a building, but rather a temporary form of accommodation, such as a static caravan. Therefore, in the absence of any substantive evidence to indicate that the building is indeed a chalet, I conclude that it is a building and therefore Policy EC9 of the LP is not relevant to the proposal.
13. I therefore conclude that the proposal would significantly harm the character and appearance of the area, contrary to Policies S4, HC8 and EC8 of the LP. It would also fail to accord with the general design objectives of the Framework.

<sup>1</sup> Appeal ref: APP/P1045/C/18/3196593

### **Other Matters**

14. I have had regard to the concerns raised in respect of matters pertaining to the deeds of a neighbouring resident. However, such matters have had no bearing on my consideration of the planning merits of the proposal.
15. In their reason for refusal, the Council refer to the development as being non-essential. However, there is no evidence before me that the relevant development plan policies require that there must be an essential need, or otherwise, for the proposal.

### **Conclusion**

16. For the reasons given above, the appeal is dismissed.

*Alexander Walker*

INSPECTOR



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## Appeal Decision

Site visit made on 18 February 2020

**by F Cullen BA(Hons) MSc DipTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 March 2020**

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**Appeal Ref: APP/P1045/W/19/3242644**

**Land to the rear of Ash Tree Farm, Spend Lane, Sandybrook, Ashbourne DE6 2AR**

- 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 P Tong against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00793/FUL, dated 8 July 2019, was refused by notice dated 23 September 2019.
  - The development proposed is a change of use of equestrian and agricultural land to B8 storage including the siting of 64 storage containers.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application for Planning Permission (PP) which is the subject of this appeal was refused by the Council on 23 September 2019. Following this, the Council issued an Enforcement Notice (EN) on 31 October 2019. Appeals against the refusal of PP and the EN were submitted to the Planning Inspectorate by the appellant on 6 December 2019. The appeal against the EN was turned away as being out of time.
3. Given the issue of an EN by the Council, under Article 37(2)(c) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) any appeal against the refusal of PP should have been received by the Planning Inspectorate within 28 days of the issue of the EN, i.e. 28 November 2019. Although used sparingly, discretion to accept late appeals is afforded under Article 37(1)(a)(ii) of the DMPO. As there was no delay between the submission of the appeals and the Council has not sought to question the acceptance of the appeal against the refusal of PP as being out of time, this appeal has been accepted and I have determined it on this basis. For the avoidance of doubt, my consideration of the appeal deals solely with the evidence related to the refusal to grant PP.
4. At the time of my site visit, I saw that the change of use of the land and the siting of the storage containers has already occurred. I have dealt with the appeal on that basis.
5. Additional information in the form of tax returns has been submitted by the appellant in support of the appeal. I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by



the Inspector is essentially what was considered by the Council as local planning authority, and on which interested people's views were sought. The Council has had the opportunity to comment on the information as part of the appeal. I am therefore prepared to accept it on this basis. I am satisfied that no interested party has been prejudiced by this approach.

## **Main Issues**

6. The main issues are:

- Whether the development provides a suitable location for B8 storage use, having regard to the development plan; and
- The effect of the development on the character and appearance of the landscape.

## **Reasons**

### *Suitable location*

7. The appeal site is located between Ashbourne and Thorpe within the open countryside. It is sited within Ash Tree Farm landholding and is accessed via a narrow track from Spend Lane.
8. Prior to the installation of the self-storage container facility (the facility) between 2016 and 2018, the appeal site is stated to have been an unused equestrian ménage and agricultural grazing land. The rest of the landholding is currently used for a variety of agricultural purposes, including grazing livestock (mainly sheep and chickens).
9. On my site visit, I observed that the appeal site is comprised of two storage yards, one at a slightly higher level and each with a gated access. The metal storage containers are of varying sizes and have a dark green finish. The yards are partly screened by existing hedgerows and additional planting has been carried out by the appellant.
10. Policy S4(f) of the Derbyshire Dales Local Plan 2017 (DDLPL) states that planning permission will be granted for development where, it comprises proposals for agriculture and related development which helps sustain existing agricultural and other rural based enterprises, including small scale farm shops selling local produce, complementary farm diversification and new agricultural buildings that maintain the landscape quality and character of the countryside. In addition, Policy EC1 of the DDLPL supports new agricultural development, farm diversification and other development which supports the rural economy.
11. The appellant contends that the development is a diversification of the existing farm business which has been running for almost four continuous years, and has submitted agricultural tax computations dating from 2014-2018 as part of the appeal.
12. I accept that the information submitted confirms that the farm is an ongoing business and has been running during this period. However, no evidence has been provided which clarifies the relationship between the facility and the existing farm business, and how it provides a supplementary diversification scheme which supports the landholding. In this respect, the information does not provide a justification for the development.

13. I note the economic, social and environmental benefits of the facility which have been highlighted by the appellant, such as employment, a service to local businesses, low impact in terms of trips to the site and zero waste. However, limited or no conclusive evidence on these matters, such as details of the job created, information about the users of the facility and how far and how often they have travelled, is before me as part of the appeal. Therefore, the local benefits stated as being accrued from the facility, particularly how it supports the rural economy, cannot be fully confirmed.
14. Accordingly, I conclude that the development does not provide a suitable location for B8 storage use, having regard to the development plan. As such, it is contrary to Policies S1, S4 and EC1 of the DDLP. Together, and amongst other things, these policies seek to ensure that new development makes a positive contribution towards the achievement of sustainable development; facilitates sustainable rural community needs, tourism and economic development; and supports proposals for new or expansion of existing business or industrial development in sustainable locations.

#### *Character and appearance of the landscape*

15. The appeal site lies within an expansive and undulating green, rural landscape which is interspersed by individual houses, farmsteads and small settlements, along with large areas of mature woodland, tree belts and hedge lines.
16. I acknowledge that the facility is relatively modest in size in relation to the landholding, appears well maintained, has restricted opening hours and is only lit by one single floodlight. I also note that the single level of units and finish of the containers, together with the existing and newly planted boundary treatment, mitigate the development's impact on the appearance of the landscape and the ability to view it from surrounding public routes.
17. However, notwithstanding the limited wider visual impact of the development, the yards and containers are highly conspicuous to any visitors when within the site. Furthermore, their commercial nature and very hard and heavy industrial form are in sharp contrast to, and out of keeping with, the agricultural structures and softer rural landscape of the surrounding area. In these respects, the development results in a discordant use and incongruous feature within the landscape which does not protect or enhance its intrinsic character.
18. I note that the appellant has confirmed that the site is not anticipated to grow over and above its current capacity, and that he is willing to accept the imposition of a condition to ensure that the containers cannot be stacked in the future. However, these factors are not sufficient to overcome the fundamental objections to the nature and form of this type of development in this location and context.
19. Therefore, I conclude that the development has a harmful effect on the character of the landscape. As such, it conflicts with Policies S1, S4, PD1 and PD5 of the DDLP. Together, and amongst other things, these policies seek to ensure that new development makes a positive contribution towards the achievement of sustainable development; protects and where possible, enhances the landscape's intrinsic character and distinctiveness, whilst also facilitating sustainable rural community needs, tourism and economic development; responds positively to the environment; and protects, enhances and restores the landscape character of the Plan Area.

## Other Matters

20. It is suggested by the appellant that the site in part comprised previously developed land, and provides a commercial enterprise in accordance with the criteria for which Policy S4 of the DDLP states planning permission will be granted. However, having regard to the National Planning Policy Framework's definition of Previously Developed Land, the appellant's statement confirms that there were no previous buildings on the site and the definition excludes land that was last occupied by agricultural or forestry buildings. Furthermore, in my planning judgement, the appellant's claims that the facility complements the existing agricultural business and maintains the landscape quality and character of the countryside, have not been substantiated. Therefore, this is a matter to which I afford limited weight.
21. I am aware that Policies S9 and EC10 of the DDLP seek to support farm enterprises and diversification. However, as there is no evidence before me that the development is a diversification which supports the existing business and I have concluded that it is a use that is not compatible with its location in terms of the character of the landscape, I am of the opinion that the development also conflicts with these policies.
22. I have had regard to the appellant's comments that there were no opportunities to re-use or replace existing buildings before the containers were sited in this location, that there are no other unoccupied existing buildings within the landholding where the containers could have been located and that the layout of the yards represent an efficient use of land which benefits the wider farm operations. However, these factors do not justify the identified harm.
23. The appellant has drawn my attention to other self-storage container facilities that have been granted planning permission by the Local Planning Authorities in which they are located, or allowed on appeal<sup>1</sup>. Some are highlighted by the appellant to be key examples of successful rural self-storage uses working in tandem with an operational farm and small-holding, and so are comparable to Ash Tree Farm. However, I do not know the full details or circumstances of these developments and, from the limited information provided, I am unable to draw any direct comparisons with the appeal before me. In any event, I have determined this appeal on its own planning merits and the specific context of the appeal site and found that it causes harm.
24. I am aware that no technical concerns, subject to the imposition of conditions, were raised by Highway Development Control and Environmental Health. I also note that no objections were received from Mappleton Parish Council or neighbouring landowners. However, these are neutral considerations in the balance and do not outweigh or overcome my conclusions on the main issues.
25. I note the appellant's comments that the Council assumed a lack of connection of the facility to the established business use on site and made no attempt to clarify this issue which was then used as part of the reason for refusal. However, such matters are not material considerations to which I can give any significant weight in the context of an appeal under Section 78 of the Act.

<sup>1</sup> Combs Farm Storage NG22 8EW; Coed Farm SA32 8HB and Appeal Ref: APP/M6825/A/12/2171843; Wimpstone Fields CV39 8NN; Henwood Farm LE67 1AP; Apple Pie Farm TN17 4EU; Appeal Ref: APP/X1925/A/10/2121343; and Appeal Ref: APP/L2630/W/15/3040063.

**Conclusion**

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

*F Cullen*

INSPECTOR



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## Appeal Decision

Site visit made on 16 March 2020

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 March 2020**

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**Appeal Ref: APP/P1045/D/20/3244193**

**Cottage Farm, Longford Lane, Longford DE6 3DT**

- 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 David Fox against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00964/FUL, dated 15 August 2019, was refused by notice dated 14 October 2019.
  - The development proposed is extension and alterations to existing cottage including demolition of existing outbuildings.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposal would preserve or enhance the character and appearance of the Longford Conservation Area (CA).

### Reasons

3. Cottage Farm faces and is set back from Longford Lane with outbuildings to the rear. A public footpath runs from the road, across adjacent fields to the east and south of the site and over the nearby Longford Brook. The appeal property lies in the southern part of the CA, which covers most of the village and land to the north around Longford Hall. The significance of the CA partly lies in the historic and architectural interest of buildings it contains as well as the predominant agricultural setting of the village.
4. The appellant's heritage statement indicates that Cottage Farm is largely unchanged from its original 19th century form and construction and it retains interesting architectural features such as unusual brickwork and decorative tiling. As such, the house contributes positively to the attractive appearance and historic interest of the CA.
5. Whilst set back behind the front wall, the extension would project out to the side and so would be seen when looking towards the main elevation of the house from the road. Also, despite the appellant's claims that the proposal would be well-screened, the whole depth of the extension would be seen over low boundary features from the footpath and from the road when approaching the site from the east. The proposed planting would not entirely hide the extension from public views, particularly during times of leaf fall.

6. The extension would be set down below the host property's ridgeline and would be smaller in terms of footprint than the outbuildings to be removed. However, it would be attached and so would more directly affect the form of the house compared to the detached farm buildings. Also, the proposal would significantly increase the scale of the house and would result in a change in its appearance from a modest farmhouse to a much larger dwelling. As a consequence, the proposal would harm the historic character of the property.
7. The appellant's aims in respect of the design of the extension are noted but there is no evidence that the house has ever formed part of a courtyard and the proposal's non-agricultural appearance fails to complement the rural character of the site. The proposed timber cladding and large windows would reflect features seen on the nearby Cheese Factory but they would fail to respect the decorative features and traditional style of the appeal property. Furthermore, the projection of the extension beyond the side wall would compete with and detract from the attractive symmetry on the front elevation of the house. For all these reasons, the extension would be incongruous and undermine the attractive and interesting rural character of Cottage Farm.
8. The more recently constructed outbuildings are not rural in appearance and so detract from the property. As such, their removal would be a benefit of the proposal. However, the brick and tile outbuildings are of a historic agricultural appearance and emphasise the rural nature of the site, despite their poor condition and informal positioning in relation to the house. The removal of the brick outbuildings would therefore harm the interest and character of the site.
9. The proposed renovation works, the reinstatement of the porch and cast iron lights, removal of inappropriate minor additions to the house and new planting would all enhance the appearance of the property. Also, the proposal would retain the open fields surrounding the site, thereby preserving its rural setting. However, such benefits would not override or address the identified harm that would be caused to the attractiveness and historic interest of the property by virtue of the size and incongruous design of the extension and the removal of outbuildings that contribute positively to the rural character of the area.
10. The proposed changes to the property and resulting harm to the appearance of the site would be visible from various public vantage points. As such, the proposal would harm the overall character and appearance of the CA and diminish its significance. Whilst this would not reach the very high hurdle of substantial harm, it would nonetheless lead to less than substantial harm to the CA's significance that requires clear and convincing justification. Due to intervening buildings and landscaping, the proposed development would not be easily seen with the Cheese Factory, Longford Mill and nearby bridges and so would not affect the setting or significance of these listed buildings.
11. In line with the National Planning Policy Framework (the Framework), the harm caused to the CA as a designated heritage asset should be weighed against the public benefits of the proposal. Great weight should be given to the asset's conservation in any assessment.
12. Cottage Farm has only basic facilities and the proposed works would allow the property to be used as a family home. However, there is no evidence that demonstrates the modernisation of the property is reliant upon the proposed development. Moreover, the desire to provide a house suitable for family use is a personal rather than a public benefit.

13. As such, there are no public benefits to the proposal that would outweigh the identified less than substantial harm caused to the CA. Consequently, I conclude the proposal fails to preserve or enhance the character or appearance of the CA and so it would be contrary to policies PD1, PD2 and HC10 of the Derbyshire Dales Local Plan 2017 and the Framework. These all aim, amongst other things, to ensure development proposals are in keeping with the character and appearance of the original building and area and conserve heritage assets in a manner appropriate to their significance.

**Conclusion**

14. For these reasons, I conclude the appeal should be dismissed.

*Jonathan Edwards*

INSPECTOR



# Appeal Decision

Site visit made on 26 May 2020

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 June 2020**

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**Appeal Ref: APP/P1045/W/20/3244790**

**Mooredge Farm, Knabhall Lane, Tansley DE4 5FS**

- 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 A Barrett against the decision of Derbyshire Dales District Council.
  - The application Ref 18/01175/FUL, dated 19 October 2018, was refused by notice dated 23 July 2019.
  - The development proposed was originally described as conversion of former residential and holiday-use portal-frame, swimming pool building to a single dwelling and the demolition of the adjoining agricultural building.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the evidence before me that the proposed drawings were amended during the planning application process. The amended drawings relate to the conversion of the two easternmost bays of the portal framed building to form a dwellinghouse and the retention of part of the other three bays as an open-fronted agricultural building. This is illustrated on drawing refs.1997-02E (Plans and Section), 1197-10D (Proposed elevations) and 1197-200B (Proposed Block Plan). The Council dealt with the proposal on this basis and so shall I.
3. My attention has been drawn to prior approval having been granted for a change of use of the agricultural building to a dwelling<sup>1</sup>. The details before me indicate that particular approval did not relate to the part of the building previously converted to a swimming pool. Such a prior approval would have been assessed under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Given the proposal before me relates to the Council's decision on a planning application relating to a different part of the building, I have assessed the appeal proposal on its own merits against the development plan and the relevant national policy.

## Main Issue

4. The main issue is whether the appeal site would be a suitable location for the proposed development, having regard to the development plan and national policy and the effect of the proposal on the character and appearance of the area.

<sup>1</sup> LPA Ref 19/01332/PDA



## Reasons

### *Location*

5. The rural surroundings of Mooredge Farm are predominantly characterised by fields within a generally sloped topography. The appeal site contains a metal framed building with a mix of elevational treatments. Part of the building contains a swimming pool whilst the other part is an agricultural shed. A bungalow and a small number of single storey holiday residences sit in close proximity to the appeal building.
6. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development. Policy S1 (Sustainable Development Principles) of the Derbyshire Dales District Council Local Plan (2017) (LP) sets out how all developments should seek to make a positive contribution towards the achievement of sustainable development and how this will be achieved. This includes amongst other things meeting most development needs within or adjacent to existing communities having regard to the defined settlement hierarchy. The site is located away from the nearest settlements and in the countryside.
7. The swimming pool part of the building constitutes previously developed land under the definition in the Framework. Paragraph 117 of the Framework states amongst other things that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment.
8. Policy S4 (Development in the Countryside) of the LP confirms amongst other things that outside settlement boundaries the District Council will seek to ensure that development protects and where possible, enhances the landscape's intrinsic character and distinctiveness. Planning permission will be granted for new residential development subject to several criteria, one of which relates to where it comprises development in accordance with Policy HC8 (Conversion and Re-Use of Buildings for Residential Accommodation) of the LP.
9. Policy HC8 sets out the criteria, all of which must be met, for the conversion and/or reuse of existing buildings to residential use from other uses outside defined settlement limits. The specified requirements are that a) the building is of permanent and substantial construction; b) the form, bulk and general design of the existing building makes a positive contribution to the character and appearance of its surroundings; c) the building can be converted without substantial alteration, rebuilding or extension; and d) the conversion does not have a detrimental impact on the character and appearance of the building and its surroundings.
10. The pre-text to Policy HC8 includes amongst other things at Paragraph 6.16 of the LP that not all buildings are appropriate for conversion to a permanent open market residential use and that some, having outlived their original purpose, are better demolished and the site returned to a green field. Paragraph 6.17 of the LP notes that some redundant buildings are of architectural or historic interest and can make an important contribution to the quality of the landscape. The Council's "Conversion of Farm Buildings" Supplementary Planning Document (SPD) also principally focuses on the merits of converting traditional vernacular buildings.

11. The existing building is utilitarian in scale and form. Its hillside position means it is prominent within the wider landscape including from Knabhall Lane. The design of the part of the building sought for conversion, most notably the large glazed section with uPVC window frames, detracts from, rather than complements, the prevailing rural character and appearance of the surrounding landscape. Consequently, the form, bulk and general design of the existing building does not make a positive contribution to the character and appearance of its surroundings and therefore does not present as a building suitable for conversion or reuse under the terms of Policy HC8 b).
12. The design of the proposal includes a mix of facing materials including natural stone, cedar cladding and grey metal sheet cladding to the external walls. Windows of varying sizes would be incorporated at ground and first floor level. As a result, the proposed fenestration would be overtly domestic, at odds with the attached agricultural shed and would not safeguard or improve the character and appearance of the prevailing agrarian surroundings. The proposal to replace any existing cladding in poor condition and painting of iron work on the building would not disguise the incongruity of the dwelling particularly given its prominent position within the rural landscape. The proposal would therefore also conflict with Policy HC8 d).
13. Even if I were to accept that the proposal would constitute a conversion of the existing building rather than a rebuild, given my findings against parts b) and d) of Policy HC8, the development would be contrary to the requirements of the policy.
14. Due to the location of the appeal site close to existing residences at Mooreedge Farm, the site is not isolated in terms of the definition within the Framework. However, the meaning in the Framework is not that any site which is not isolated is suitable for residential development.
15. There is no evidence before me to suggest more than a basic level of services and facilities is available in close proximity to the site, including at the nearest settlement, Tansley. The distance and lack of public footpath on Knabhall Lane means that it would be unlikely that occupants would walk or cycle to Tansley on more than an occasional basis particularly during winter months or periods of inclement weather. There would therefore be a reliance on the private motor vehicle to access a wider range of services and facilities to meet day to day needs. These factors do not indicate that the site is in a particularly sustainable location. The future potential for electric and hybrid vehicles to become more commonplace does not convince me that it would be sustainable to move away from a plan led-approach which protects the intrinsic character and beauty of the countryside.
16. To conclude, the site is not an appropriate location for a new dwelling. The dwelling would be harmful to the character and appearance of the area. Consequently, in those regards, the development would conflict with the sustainable development principles and development criteria which seek to protect the character and appearance of the area set out in Policies S1 (Sustainable Development Principles), S4 (Development in the Countryside), HC8 (Conversion and Re-Use of Buildings for Residential Accommodation), PD1 (Design and Place Making) and PD5 (Landscape Character) of the LP and the Framework.

## **Other Matters**

17. The appellant suggests that their preferred scheme would have included demolition of the western part of the building. I also note the appellant's suggested conditions which include a requirement for a scheme of demolition and removal of the western part of the building and details to be provided of an alternative design scheme for the southern elevation. Further suggestions include conditions setting out different options for cladding to the dwelling and attached agricultural part of the building. I also note the appellant would be willing to accept a personal tie to the dwelling. As set out in my procedural note, I have assessed the scheme that was before the Council when they determined the planning application. In any case, I am not persuaded by the evidence provided that such conditions would overcome the harm I have identified under the main issue.
18. My attention has been drawn to an appeal decision<sup>2</sup> relating to the change of use of a stable block to a dwelling. In that particular instance, whilst some conflict with the development plan was identified, the Inspector noted the site was close to the settlement boundary and considered that the proposals retained the rural appearance of that particular building. Conversely the swimming pool building and dwelling that would replace it are not of a rural appearance. Therefore, I do not consider the circumstances in that particular case are comparable.
19. I also note the plans provided relating to a prior notification for conversion of an agricultural building at Riber to a dwelling. However, the proposal before me requires full planning permission. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. I am not persuaded that the harm I have identified is justified by developments allowed under the terms of Schedule 2, Part 3, Class Q of the GPDO nor that a decision should be made other than against the policies of the development plan in this instance.
20. I have taken into account the personal circumstances of the applicant's daughter who would potentially occupy the dwelling. Whilst I acknowledge there may be social and economic benefits in enabling them to locate on the site within relatively close proximity to their place of work in Matlock, I have nothing before me to suggest that there is no suitable alternative accommodation in the area. I am therefore not persuaded that the harm I have identified is outweighed by this matter.

## **Conclusion**

21. For the above reasons the appeal is dismissed.

*M Russell*

INSPECTOR

<sup>2</sup> Ref APP/P1045/W/18/3219122



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## Appeal Decision

Site visit made on 9 June 2020

**by A Blicq BSc (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> June 2020**

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**Appeal Ref: APP/P1045/W/20/3247696**

**North Park Farm, Whitworth Road, Darley Dale DE4 2HJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr G Lowe against the decision of Derbyshire Dales District Council.
  - The application Ref 19/01191/REM, dated 21 October 2019, sought approval of details pursuant to condition No 2 of a planning permission Ref 17/00995/OUT, granted on 19 January 2018.
  - The application was refused by notice dated 23 December 2019.
  - The development proposed is: Approval of reserved matters for the erection of 1 No. dwellinghouse.
  - The details for which approval is sought are details of scale, layout, appearance and access, hereafter called the Reserved Matters.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

3. The appeal site is located beside a narrow and elevated rural lane lined with a random and intermittent development pattern of largely stone dwellings of varying age.
4. The outline permission requires the dwelling to be a traditional two storey dwelling of stone construction and a slate roof. However, whilst this development would be of stone construction it would have central projections on both the front and rear elevations, mullioned windows and projecting parapets on the gables, as well as a poorly proportioned side extension. I accept that projecting gable parapets and mullioned windows are a local feature. However, the traditional style dwellings in the vicinity that I observed had flat elevations. As such, notwithstanding that the appellant states that projections under continuing roof slopes are not uncommon, no examples have been brought to my attention. Moreover, none of the three photographs of existing dwellings, including one of recent construction, has this feature. Consequently, I conclude that there is nothing before me to support the

appellant's assertion that the proposed dwelling would have a traditional typology.

5. I have considered whether this deviation from the underlying vernacular style would appear incongruous in this setting. However, given its proximity to the lane, the proposed dwelling would be highly visible. Moreover, there is an underlying uniformity and consistency in the vernacular design details of the area which appear reflective of the locality's materials, industry and history. Furthermore, although I noticed dwellings that do deviate from the traditional design style, these are notable for an understated contemporary styling and are largely obscured by vegetation and/or set well back from the road.
6. The appellant's statement highlights that in the vicinity of the site dwellings are either large detached dwellings in large plots, or small dwellings in constrained plots. This development appears to be neither one thing nor the other. Its scale, as well as its unnecessary articulation, would suggest a status that is not reflected in its plot size.
7. Furthermore, I have reviewed the comments from interested parties and given the underlying topography, it seems to me that significant earthworks would be required, particularly to achieve suitable gradients for vehicular access. Although there is a plan drawing of the access point and hardstanding, it has no level information. The cross section shows the relationship of the dwelling to the site, but does not show how the levels would be resolved beyond the dwelling itself. Consequently, even if I had not found harm in relation to the dwelling's scale or design, there would be insufficient information to enable me to conclude that the site could be contoured satisfactorily and without additional harm to the underlying character of the area.
8. Although a previous appeal considered a different design, that Inspector's comments reinforce my reasoning that in order to sit harmoniously in this context the development should either be a more honest reflection of the locality's rustic character and building typology, or create a distinctive form of development that would stand on its own merits in this landscape. This development would do neither.
9. I appreciate that the appellant received pre-application advice. However, in that advice the Council expressed concern in relation to dimensions, the positioning of the dwelling on the site and the layout of doors and windows. As I do not have that design before me, I am unable to see how far the proposals were altered. In any case, the evidence before me suggests that the advice was not followed in respect of gable width as the plans that are adequately scaled appear to show the gable end at more than 5 metres. In any case, it remains that the Council has refused permission, which it is entitled to do and any associated procedural issues are outside the remit of this appeal.
10. As such, I conclude that the dwelling would not provide a traditional styled dwelling as required by the outline permission, which would have an adverse effect on the character and appearance of the area. This would be contrary to Policy S1 of the Local Plan (LP) which requires development to conserve and enhance the distinct Peak District character, and LP Policy S3 which requires development to be compatible with the scale, density, layout and design of its surroundings. It would also be contrary to LP Policy PD1 which requires high

quality design that respects the character, identity and context of the local townscapes and landscapes amongst other requirements.

**Conclusion**

11. The development would fail to accord with the relevant policies of the Local Plan and as such the appeal is dismissed.

*A Blicq*

INSPECTOR



# Appeal Decision

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2020

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**Appeal Ref: APP/P1045/W/19/3241930**

**Darley Hillside Methodist Church, Moor Lane, Darley Dale DE4 2HG**

- 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 Simon Heslop against the decision of Derbyshire Dales District Council.
  - The application Ref 19/00657/FUL, dated 5 June 2019, was refused by notice dated 8 October 2019.
  - The development proposed is the proposed alterations and extension and change of use and alteration of vehicular access of former Methodist church to form single dwelling unit.
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## Decision

1. The appeal is dismissed.

## Application for costs

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

## Procedural Matters

3. The description in the planning application form and decision notice differ. I have used the description in the application form which accurately describes the proposal.
4. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council have agreed to the appeal proceeding on this basis.

## Main Issue

5. The main issue is whether sufficient evidence has been provided to justify the permanent loss of the existing community facility.

## Reasons

6. The appeal building is a former Methodist Church which ceased operating in 2017. As a place of worship, the building is considered a community facility. Policy HC15 of the Derbyshire Dales Local Plan (adopted 2017) (LP) advises that development which involves the loss of a community asset or facility will only be supported where it can be demonstrated that: a) there is evidence to demonstrate that the existing use is no longer needed to serve the needs of the community; or b) the existing facility is no longer financially viable or

- commercially viable as demonstrated through a robust and comprehensive marketing exercise with the facility actively marketed at a realistic price for a continuous period of at least 12 months immediately prior to the submission of an application; and c) the use or facility has been offered to the local community for their acquisition/operation at a realistic price.
7. The supporting text for the policy offers clarification to aid the interpretation of Policy HC15. It says, amongst other things, that the loss of important local services and facilities will not be granted planning permission until all possible options have been explored to maintain the existing use. Although the supporting text refers specifically to shops and public houses this is not exclusive and it is clear to me that the supporting text is referring to all local services and facilities. The appellant has referred to case law in respect of this matter and I agree that the supporting text does not form the policy wording itself. Instead it is simply an aid to understanding the policy. Nonetheless it is helpful in this case in understanding the application of the 3 criteria within Policy HC15.
  8. It would seem to me that the insertion of the word 'or' after criterion a) within Policy HC15 means that the proposal does not need to comply with criterion b) if compliance with criterion a) is met. Moreover, criterion b) refers to commercial and financial viability which would not be relevant for a place of worship in any event.
  9. However, the inclusion of the word 'and' after criterion b) does, in my view, mean that the proposal should also comply with criterion c). I recognise that there is some ambiguity within the wording, and it could have been more clearly written. However, in my view, the proposal must either comply with criteria a) and c) or b) and c) within Policy HC15. Criterion c) is relevant either way. This would be a logical interpretation of the language used in the policy whilst having regard to the supporting text as an aid to my interpretation in line with established case law.
  10. I understand that the building was sold to the appellant as it was no longer required by the Methodist Church. Evidence has been provided to demonstrate that there is alternative provision locally for the congregation and the Council do not dispute this. To this end, I am satisfied that the building's use as a Methodist Church is no longer needed to serve the needs of the community.
  11. However, no further evidence is provided to demonstrate that the building's use as a place of worship is not needed by other groups within the community. Moreover, the appellant has not explored alternative community uses that may otherwise be appropriate for the building.
  12. I understand that the appellant purchased the building after a 3-month marketing exercise and there were no other interested parties or interest from other community groups during this time. However, from the information provided as part of the appeal the sales particulars advertised the building as having potential for development. Moreover, I have no information on the valuation process, which marketing methods were used or whether the building was advertised as a community facility. It is not, therefore, possible to reach a firm conclusion that there is no demand for the community facility from the information before me.



13. I therefore conclude that there has not been sufficient evidence provided to justify the permanent loss of the existing community facility. The proposal would therefore conflict with the requirements of Policy HC15 of the LP. This policy is broadly consistent with the requirements of the National Planning Policy Framework (the Framework).

### **Other Matters**

14. I have been referred to another church nearby where the Council have granted consent for its loss as a community facility. Although I do not have full details of the proposal, from the information before me, the evidence provided in that case was submitted on the basis of an assessment against all 3 criteria. Moreover, the applicant had marketed the property with no reserve at an auction and demonstrated, in the opinion of the Council, that this had enabled consideration for other community uses. I have, in any case, reached my own conclusions on the appeal proposal based on the evidence before me.
15. I recognise that no objections were raised to the planning application from third parties. Moreover, the Council did not make findings of harm with respect to other matters including, amongst other things, design, highways and living conditions. I have no reason to disagree with these findings. However, the absence of harm in these respects is a neutral matter weighing neither for nor against the proposal.
16. Given the modest scale of development proposed, the associated benefits would be limited and outweighed by the harm from the permanent loss of a community facility without sufficient justification. I have come to this conclusion having regard to the importance that the government places on boosting the supply of housing and making effective use of buildings.

### **Conclusion**

17. I have taken account of all the other matters raised including the benefits of the proposal. However, none changes the balance of these findings and the harm I have identified. I therefore conclude that the appeal should be dismissed.

*Robert Walker*

INSPECTOR



## Appeal Decision

Site visit made on 6 January 2020

**by M Savage BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 February 2020**

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**Appeal Ref: APP/P1045/C/19/3233212**

**Land to East of Kings Lot Wood, Longway Bank, Whatstandwell, Derbyshire.**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Lee Coxon against an enforcement notice issued by Derbyshire Dales District Council.
  - The enforcement notice was issued on 12 June 2019.
  - The breach of planning control as alleged in the notice is without planning permission the stationing of a caravan on the land for the purposes of human habitation.
  - The requirements of the notice are permanently remove the caravan from the land edged red on the attached plan.
  - The period for compliance with the requirements is 56 days.
  - The appeal is proceeding on the grounds set out in section 174(2)[b] and [c] of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The enforcement notice is quashed.

### Application for costs

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

### Ground (b)

3. An appeal on ground (b) is made on the basis that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. Under ground (b), the point in question is therefore whether the use alleged to be taking place on site, i.e. the stationing of a caravan on the land for the purposes of human habitation, was, as a matter of fact, occurring at the time the notice was issued. Under this ground the appellant asserts that nobody is inhabiting the caravan and that it is there for agricultural use.
4. The onus of proof is on Mr Lee Coxon to show that some or all of the alleged matters had not in fact occurred by the time the notice was issued, on the balance of probabilities. The Council's Statement of Case identifies the nature of a complaint in relation to the stationing of the caravan was a washing line being erected and associated generator running at night. The appellant disputes that there was a washing line erected on site or a generator running at night and asserts that the complainant could have confused a petrol water pump with a generator.

5. The Council goes on to state that following a visit to the site, it was noted by the Council Enforcement Officer that the caravan had not been modified in any way and was capable of being, and appeared at that time to be used for human habitation. The Council has provided a signed witness statement (Witness Statement) by an enforcement planning officer at the Council who visited the site on 2 April 2019 and states 'The purpose of my visit was to inspect the land to see if there was a static caravan on the land as had been reported by a member of the public. There was, but it didn't appear to be occupied.'
6. At the time of my visit I noted that the caravan contained a living room area; kitchen area, bedrooms and a shower room/WC. However, it was clearly not occupied for residential purposes at the time of my visit. There were no beds in the bedrooms and was no apparent water supply or electricity, though there was a gas cannister and gas fire (which was not on at the time of my visit). I saw various tools stored within the caravan, as well as bales of hay. As such, from my inspection I do not consider that the caravan has been in permanent residential use for a considerable period of time.
7. The Council advise that the appellant stated to officers that the caravan was used for recreational, not agricultural purposes. Although the Council issued a Planning Contravention Notice (PCN) no response from the appellant was provided. The signed Witness Statement notes that during a meeting with officers on 15 April 2019 the appellant explained that the caravan is to be used for recreation purposes by him and his family when they visit this land.
8. The accuracy of the Witness Statement is questioned by the appellant. However, given the potentially significant consequences of wilfully stating anything which is known to be false in the Statement, I consider that substantial weight can be afforded to this element of it. The accuracy of peripheral matters such as the identify of the person accompanying the appellant during the meeting is of less significance in this regard.
9. The appellant states that the claim the site has and continues to be used for recreational purposes is highly subjective and untrue. I have had regard to the appellant's evidence in this respect, however, I am unable to afford it anything more than very limited weight, particularly in light of the appellant's failure to respond to the Planning Contravention Notice, which sought to secure further information regarding the siting of the caravan.
10. Nevertheless, whilst there is conflicting evidence as to whether the caravan is used for recreational or agricultural purposes, the breach identified in the enforcement notice is the use of the caravan for the purposes of human habitation. In my view, human habitation goes beyond the use of a site for recreational purposes and indicates that the occupant of the caravan is using it for every day living.
11. Thus, for the reasons given above, and taking into account the information provided by the appellant, the Council and my inspection of the site, on the balance of probabilities, the use alleged to be taking place on site, i.e. the stationing of a caravan on the land for the purposes of human habitation, was not occurring at the time the notice was issued.
12. I have considered whether I can correct the allegation in the notice to address the breach of planning control that has occurred; however, it would not be possible to do so without causing injustice to the appellant. Accordingly, the

appeal on ground (b) succeeds. The appeal under ground (c) does not therefore fall to be considered.

**Conclusion**

13. For the reasons given above I conclude that the appeal should succeed on ground (b). Accordingly, the enforcement notice will be quashed.

*M Savage*

INSPECTOR



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## Appeal Decision

Inquiry Held on 12 March 2020

Site visit made on 12 March 2020

**by A A Phillips BA(Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 March 2020**

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**Appeal Ref: APP/P1045/X/19/3223796**

**Barn, Back Lane, Darley Moor, Matlock DE4 5LP**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Ms S Marshall against the decision of Derbyshire Dales District Council.
  - The application Ref 18/00687/CLPUD, dated 22 June 2018, was refused by notice dated 9 October 2018.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is the conversion of a barn to guest house.
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### Decision

1. The appeal is allowed and a certificate of lawful use is issued, in the terms set out below in the Formal Decision.

### Preliminary matter

2. All oral evidence to the inquiry was given on oath or affirmation.

### Main Issue

3. The main issue is whether the Council's decision to refuse to issue a LDC was well-founded. In this case that turns on:
  - i. whether the appellant has demonstrated on the balance of probabilities, that on 3 July 2012 the building was solely used for an agricultural use as part of an established agricultural unit; and
  - ii. whether the proposal can reasonably be construed as being permitted development under Use Class C1 as set out in Class R of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).

### Reasons

4. Class R – *agricultural buildings to a flexible commercial use* – permits development consisting of a change of a use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage or distribution),

Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended. The proposal comprises the change of use into a guest house which is classified under Class C1 of the Use Classes Order as a guest house where no significant element of care is provided.

5. Permission under Class R is not permitted under a number of particular circumstances which are listed under R.1. Among other restrictions development is not permitted if the building was not used solely for an agricultural use as part of an established agricultural unit on 3<sup>rd</sup> July 2012 and, in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
6. Consequently, it is clear to me that firstly the appeal turns on whether the appellant has provided sufficient evidence to demonstrate that ON (my emphasis) 3 July 2012 the building in question was used solely for agricultural use as part of an established agricultural unit, or, if not in use on that date, that that was its use prior to that date. Secondly, whether the Council's second reason for refusal is justified under the terms of the GPDO.
7. In seeking a LDC, the onus of proof is on the appellant to show that on the balance of probabilities the development would be lawful at the time of the application.
8. In refusing the application, the Council asserts that it has not been demonstrated that the building has been used solely for agricultural purposes PRIOR (my emphasis) to 3 July 2012. Plainly, in accordance with the GPDO that is not the correct test, but rather the appellant needs to establish the use of the building on 3 July 2012. In support of its position with respect to this matter, the Council states that their point remains relevant because of the need for the building to be part of an established agricultural unit.
9. Based on the evidence now before me the building was used by Mr Hinchley on the date in question for the purposes of his agricultural holding. There is insufficient clear evidence to the contrary. The items in the building served part of an agricultural unit and served an agricultural purpose. The evidence presented is consistent that Mr Hinchley used the land for grazing sheep and the building for storing fodder and other agricultural equipment
10. In 2009 planning permission was granted for the use of the building for stabling purposes but the photographic evidence of the interior of the building shows that it has not been used for those purposes. In any case, the particular use of the building in 2009 is not relevant to the key question of how the building was being used on 3 July 2012. The appellant also confirmed that she did not fully implement that planning permission. There is insufficient evidence before me that the building was used otherwise. It is clear to me that prior to the current occupant first starting to use the barn it was disused, and he is the only person to have used it since, which includes 3 July 2012.
11. Additional evidence from the appellant and other witnesses clarifies that the appeal building has not been used for equestrian purposes. It appears that horses may have been tethered outside the building and cared for within the vicinity of the building but this is insufficient for me to conclude that the building itself has been used for equestrian purposes or that the building has been used for purposes other than agriculture. I accept that the evidence

points to instances of equestrian use on the wider agricultural unit, but Class R does not state that the established agricultural unit should not have any non-agricultural uses – that restriction is reserved only for the building itself.

12. There is some inconsistency in the evidence before me, such as the description of the proposed development and current use of the building in the 2009 planning application (conversion of a stables and feed store into a dwelling), but the Council has now conceded that significant weight should be given to the appellant's evidence given under oath and, on the balance of probabilities, the building was in agricultural use on the relevant date. I conclude that the appellant has demonstrated on the balance of probabilities, on 3 July 2012 the building was solely used for an agricultural use as part of an established agricultural unit
13. Secondly, there is no minimum building size specified in Class R, but rather only a maximum size is specified. Had the intention have been to limit the permitted development right to a building or buildings over a particular size then I see no reason why it does not do so. The Council has identified an appeal decision<sup>1</sup> where the Inspector dismissed an appeal for a LDC under Class M (the pre-cursor to current Class R) on the grounds that the evidence presented did not show how the guest house would practically operate or function given the limited size of the building. Although that case demonstrates the approach that was taken at that particular time, I note that the particular circumstances of that case are materially different to those relating the current appeal and furthermore, that decision was not made under the current Class R.
14. I have noted the Council's comments that the building is unsuitable for conversion, that it is necessary to consider whether the change of use of the building is possible and the outcomes that may arise from different interpretations of Class R. I find nothing in Class R which sets a minimum building size and therefore, in spite of the contention that this may result in some absurd outcomes, it is not reasonable for the Council to rely on a reason for refusal which relates to a matter not specified in the GPDO. I have also taken account of the Council's concerns regarding installing an additional floor of accommodation in the building, but in my opinion, this does not fall to be considered under the current appeal for a proposed use under Class R.
15. Therefore, on this issue I conclude that the proposal can reasonably be construed as being permitted development under Use Class C1 as set out in Class R of Part 3 of Schedule 2 of the GPDO.
16. In coming to my decision I have taken account of the detailed planning history of the site, including previous applications and appeals and other planning appeals and decisions. However, I have determined this appeal on the specific circumstances of this site, the particular requirements of Class R of Part 3 of Schedule 2 of the GPDO and the evidence given on oath at the Inquiry.

## **Conclusion**

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the conversion of a barn to a guest house was not well-founded and

<sup>1</sup> APP/P1045/X/14/2215330

that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

**Formal Decision**

18. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is considered to be lawful.

*A A Phillips*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

Jonathan Mitchell of Counsel      Appointed by Ms Shani Marshall

He called

Steve Hinchley  
Martin Marshall  
John Leslie Waterfall  
Shani Marshall  
Roger Alan Yarwood of Roger Yarwood Planning Consultants Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Howard Leithead of Counsel      Appointed by Derbyshire Dales District Council

He called

Gareth Griffiths

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

Planning History Document prepared by Mr Roger Yarwood January 2020

2016 Appeal documents (Reference APP/P1045/W/16/314736)

Appeal decision APP/P1045/X/14/2215330 Rear of 11A, Little Bolehill, Bolehill,  
Matlock DE4 4GR



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## Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192  
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)  
ORDER 2015: ARTICLE 39

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**IT IS HEREBY CERTIFIED** that on 22 June 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development described would be permitted development by virtue of the rights conveyed by Class R of Part 3 of Schedule 2 of the GPDO Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

*A A Phillips*  
INSPECTOR

Date: 30 March 2020

Reference: APP/P1045/X/19/3223796

### **First Schedule**

Conversion of a barn to guest house

### **Second Schedule**

Land at Barn, Back Lane, Darley Moor, Matlock DE4 5LP

## NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



# Plan

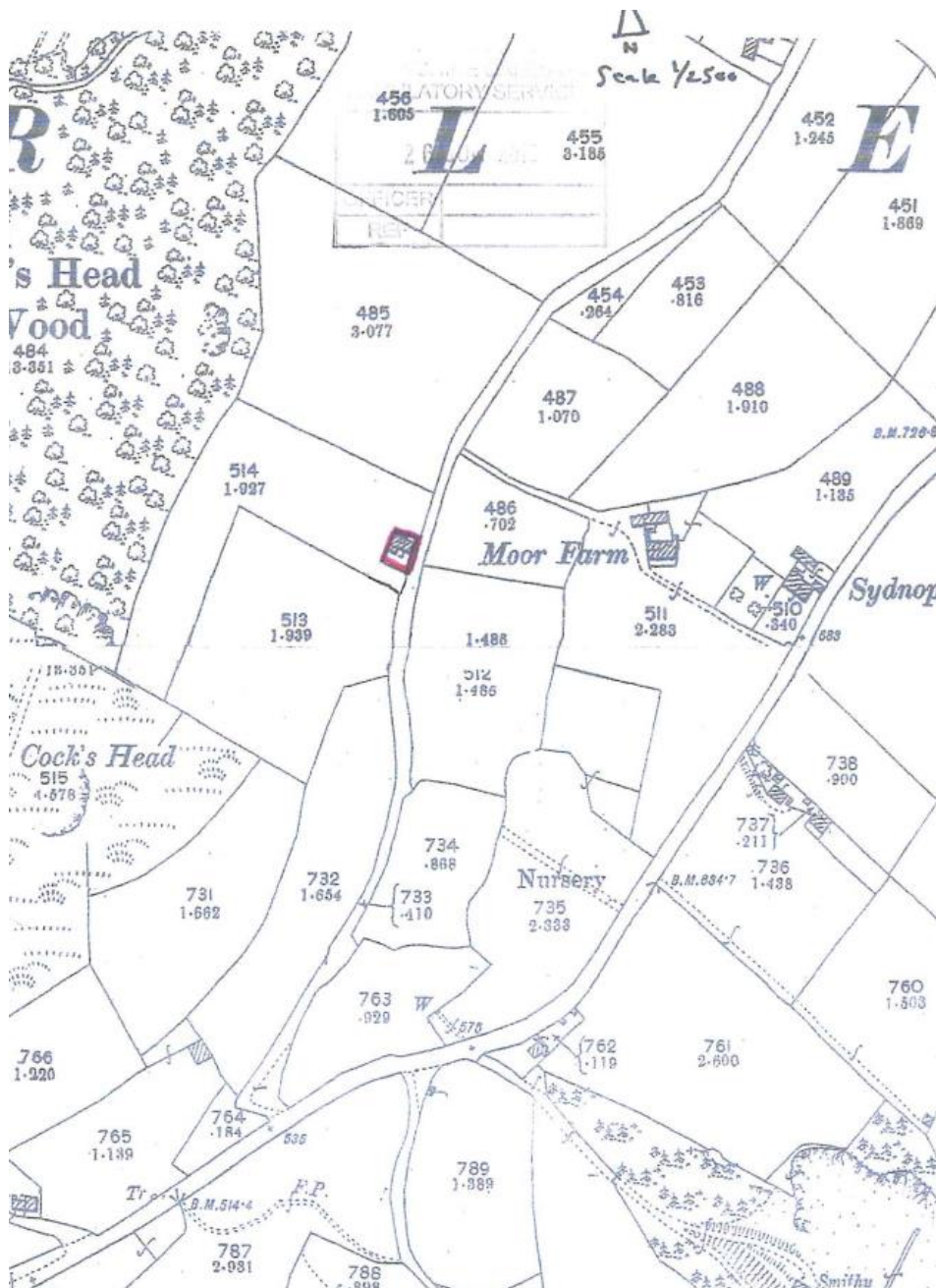
This is the plan referred to in the Lawful Development Certificate dated: 30 March 2020

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

**Barn, Back Lane, Darley Moor, Matlock DE4 5LP**

**Reference: APP/P1045/X/19/3223796**

Scale: Do not scale



## **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**