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Monday, 12 February 2024

To All Councillors:

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday, 20 February 2024 at 6.00 pm** in the **Council Chamber, Town Hall, Matlock, DE4 3NN**

Yours sincerely,

Helen Mitchell  
Director of Corporate and Customer Services

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

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

## AGENDA

**SITE VISITS:** Attached to the agenda is a list of sites the Committee will visit (**by coach**) on **Monday, 19 February 2024**. A presentation with photographs and diagrams will be available at the meeting for all applications including those visited by the Committee.

### 1. APOLOGIES FOR ABSENCE

Please advise the Democratic Services Team on 01629 761133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk) of any apologies for absence.

## **2. APPROVAL OF MINUTES OF PREVIOUS MEETING (Pages 9 - 12)**

16 January 2024

## **3. INTERESTS**

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

## **4. PUBLIC PARTICIPATION**

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

## **5. 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.

### **5.1. APPLICATION NO. 23/01310/FUL (Pages 13 - 24)**

Installation of 11no. Solar PV panels (Resubmission) at The Old Blacksmiths Shop, Dale End, Wirksworth.

### **5.2. APPLICATION NO. 23/00916/FUL (Pages 25 - 34)**

Change of use from museum and exhibition space to (class E) antique, salvage, recycled and vintage collectables shop at Red House Stables, Old Road, Darley Dale, Derbyshire, DE4 2ER.

### **5.3. APPLICATION NO. 23/00684/FUL (Pages 35 - 60)**

Erection of 6 no. commercial / industrial units (Use Classes E(g)(ii) – Research and Development and B8 – Storage and Distribution) (Resubmission) at R P C Commercials, Thurvaston Lane, Longford.

### **5.4. APPLICATION NO. 23/01094/OUT (Pages 61 - 78)**

Outline planning application for the demolition of existing dwelling and associated buildings and construction of a 74no. bedroom care home (Use Class C2) with approval sought for all matters except landscaping at Holmelea, Derby Road, Ashbourne, DE6 1LZ.

## **6. APPEALS PROGRESS REPORT (Pages 79 - 80)**

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

**Members of the Committee:** David Burton (Co-Chair), Peter O'Brien (Co-Chair) and Sue Burfoot (Vice-Chair)

Robert Archer, John Bointon, Neil Buttle, Peter Dobbs, Nigel Norman Edwards-Walker, David Hughes, Stuart Lees, Laura Mellstrom, Dermot Murphy, Peter Slack and Nick Whitehead

### **Nominated Substitute Members:**

Substitutes – Councillors Anthony Bates, Geoff Bond, Kelda Boothroyd, Marilyn Franks, Gareth Gee, Dawn Greatorex, Andy Nash, Roger Shelley and Nick Wilton

### **SITE VISITS**

Members are asked to convene outside Reception, at the front entrance of the Town Hall, Matlock at **9:50am prompt** on **Monday, 19 February 2024**, before leaving **(by coach)** at **10:00am** to visit the sites as detailed in the included itinerary.

## **COMMITTEE SITE MEETING PROCEDURE**

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

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

## **PUBLIC PARTICIPATION**

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

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

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

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

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

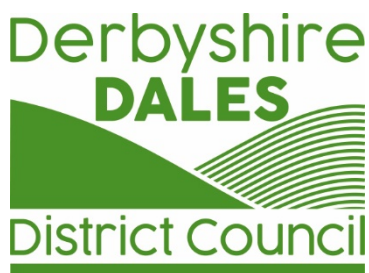
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## SITE VISITS

<b>LEAVE OFFICE</b>		<b>10:00</b>
23/00684/FUL	R P C Commercials, Thurvaston Lane, Longford, DE6 3DU	10:50
23/01094/OUT	Holmlea, Derby Road, Ashbourne, DE6 1LZ	11:50
23/01310/FUL	The Old Blacksmiths Shop, Dale End, Wirksworth, DE4 4EJ	12:40
23/00916/FUL	Red House Stables, Old Road, Darley Dale, DE4 2ER	13:20
<b>RETURN</b>		<b>14:00</b>

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## Planning Committee

**Minutes of a Planning Committee meeting held at 6.00 pm on Tuesday, 16th January, 2024 in the Council Chamber, Town Hall, Matlock, DE4 3NN.**

**PRESENT** Councillor Peter O'Brien - In the Chair

Councillors: David Burton, Sue Burfoot, Robert Archer, John Bointon, Peter Dobbs, Nigel Norman Edwards-Walker, Stuart Lees, Dermot Murphy and Peter Slack

Present as Substitute - Councillors: Roger Shelley

Helen Mitchell (Director of Corporate and Customer Services (Monitoring Officer)), Kerry France (Legal Services Manager), Chris Whitmore (Development Control Manager), Sarah Arbon (Senior Planning Officer), Tommy Shaw (Democratic Services Team Leader) and Angela Gratton (Democratic Services Officer)

Members of the Public – 6

### **Note:**

*“Opinions expressed or statements made by individual persons during the public participation part of a Council or committee meeting are not the opinions or statements of Derbyshire Dales District Council. These comments are made by individuals who have exercised the provisions of the Council’s Constitution to address a specific meeting. The Council therefore accepts no liability for any defamatory remarks that are made during a meeting that are replicated on this document.”*

### **APOLOGIES**

Apologies for absence were received from Councillor(s): Neil Buttle, David Hughes, Laura Mellstrom and Nick Whitehead

### **288/23 - APPROVAL OF MINUTES OF PREVIOUS MEETING**

It was moved by Councillor David Burton, Seconded by Councillor Peter Dobbs and

### **RESOLVED**

That the minutes of the meeting of the Planning Committee held on 12 December 2023 be approved as a correct record, subject to one minor amendment.

## **Voting**

**9 For**  
**0 Against**  
**2 Abstentions**

The Chair declared the motion **CARRIED**.

### **289/23 - INTERESTS**

There were no declarations of interest.

### **290/23 - APPLICATION NO. 23/00990/FUL**

The Development Manager gave a presentation showing details of the application and photographs of the site and surroundings.

The Committee visited the site prior to the meeting to allow Members to appreciate the proposal in the context of its surroundings.

In accordance with the procedure for public participation, Ms Megan Askham (Agent) spoke in support of the application. Ms Emma Hickling (Local Resident) spoke against the application.

Consultation responses were set out in section 5 of the report.

Correspondence received after publication of the agenda was distributed at the meeting. This comprised of comments received from the neighbours and the applicant's structural engineer.

It was moved by Councillor Sue Burfoot, Seconded by Councillor David Burton and

**RESOLVED** (unanimously)

That planning permission be refused for the following reasons:

1. The Local Planning Authority is not satisfied that the development has been undertaken in a manner that will not adversely affect the stability of the land and result in damage to the adjacent dry stone boundary wall. The unacceptable risk to the safety of the users of adjacent land is contrary to the aims of Policy PD9 of the Adopted Derbyshire Dales Local Plan (2017).
2. Insufficient information has been submitted to demonstrate that appropriate drainage will be put in place to prevent localised flooding contrary to the aims of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

The Chair declared the motion **CARRIED**.

### **291/23 - APPLICATION NO. 23/00695/REM**

The Senior Planning Officer gave a presentation outlining the information submitted since the deferral of the case at the meeting held on the 12<sup>th</sup> December 2023.

The Committee visited the site on the 11<sup>th</sup> December 2023 to allow Members to appreciate the proposal in the context of its surroundings.

In accordance with the procedure for public participation, Ms Sarah Wills (Agent) spoke in support of the application. Councillor Steve Wain (Ward Member) commented on the application.

Consultation responses were set out in section 5 of the report.

Correspondence received after publication of the agenda was distributed at the meeting. This comprised of comments from the Housing Section on the housing need in the district.

It was moved by Councillor Robert Archer, seconded by Councillor Dermot Murphy and

### **RESOLVED**

That planning permission be approved subject to the conditions set out in section 8 of the report, and that Committee Members be informed of the drainage proposals as part of the requisite land drainage conditions, with any feedback presented to the case officer via the Chair.

### **Voting**

**8 For**  
**0 Against**  
**3 Abstentions**

The Chair declared the motion **CARRIED**.

### **292/23 - APPEALS PROGRESS REPORT**

It was moved by Councillor Stuart Lees, seconded by Councillor Peter Dobbs and

**RESOLVED** (unanimously)

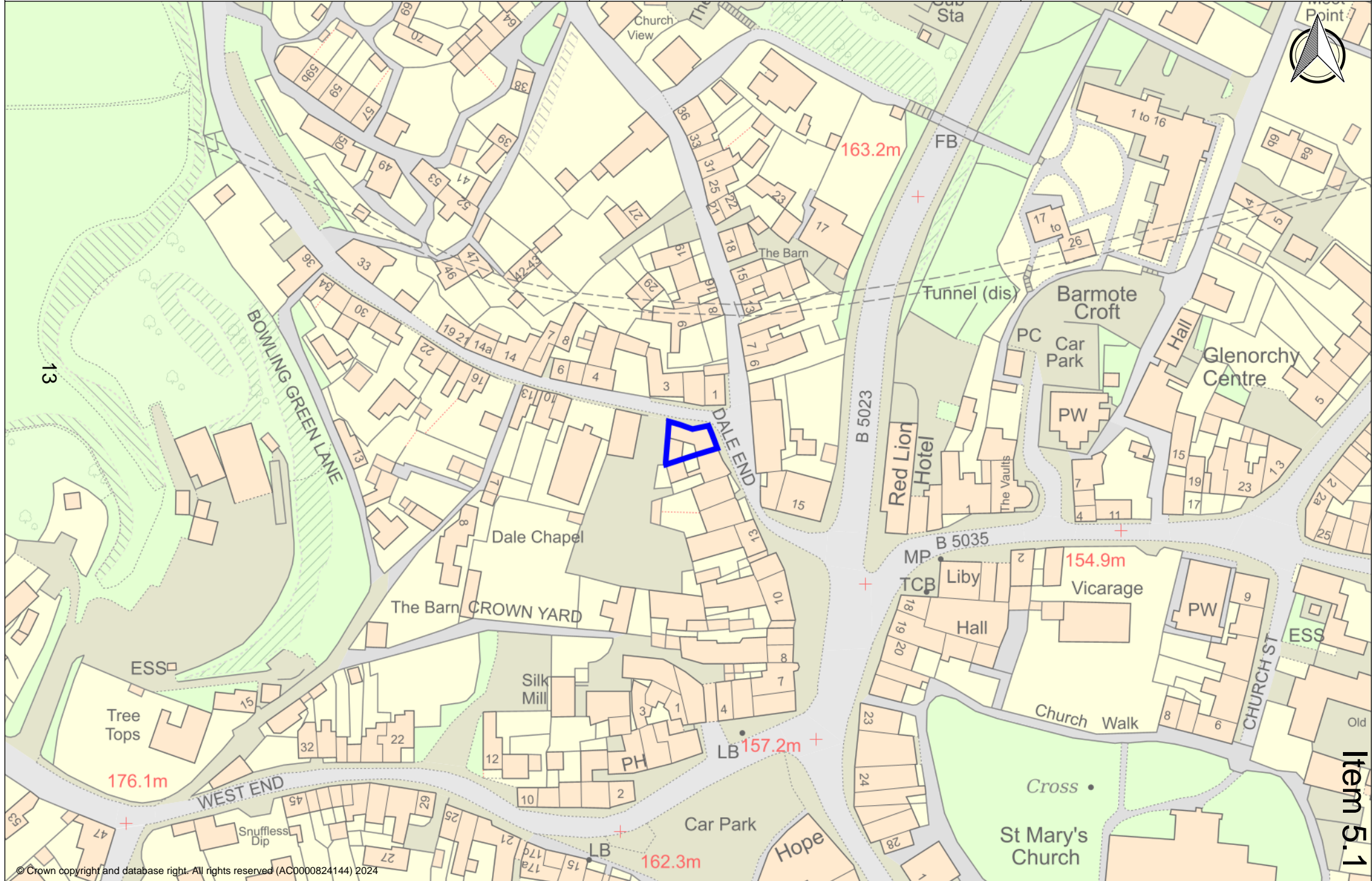
That the report be noted.

The Chair declared the motion **CARRIED**.

**Meeting Closed: 8.00 pm**

**Chair**

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<b>APPLICATION NUMBER</b>		23/01310/FUL	
<b>SITE ADDRESS:</b>		The Old Blacksmiths Shop, Dale End, Wirksworth	
<b>DESCRIPTION OF DEVELOPMENT</b>		Installation of 11no. Solar PV panels (Resubmission)	
<b>CASE OFFICER</b>	G Huffen	<b>APPLICANT</b>	Mr Chris Tebb
<b>PARISH/TOWN</b>	Wirksworth	<b>AGENT</b>	Mr Gabriel Babenko – Babenko Associates
<b>WARD MEMBER(S)</b>	Cllr P Slack Cllr Lucy Peacock Cllr D Greatorex	<b>DETERMINATION TARGET (EXTENSION OF TIME)</b>	23.02.2024
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Called in by Ward Member	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To enable Members to appreciate the site and context.

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• The impact of the development upon the character and appearance of the property which is the subject of an Article 4 Direction.</li> <li>• The impact of the development upon the character and appearance of wider Wirksworth Conservation Area.</li> <li>• The ecological impact of the development.</li> </ul>

<b>RECOMMENDATION</b>
That the application be refused for the reason(s) set out in section 8.0 of the report.

## 1.0 THE SITE AND SURROUNDINGS

- 1.1 The Old Blacksmiths Shop is an historic building located prominently on the corner of Dale End and The Dale. The building comprises of a two-storey section with dual pitched clay tile roofs over and a lower two-storey projection to the rear. The property is located within the Wirksworth Conservation Area and is also covered by the Article 4 Direction.



## 2.0 DETAILS OF THE APPLICATION

- 2.1 Planning permission is sought for the installation of 11no. roof mounted solar PV panels – 5no. to the west facing roof slope of the taller frontage block and 6no. to the south facing roof slope of the rear projection. The panels are to be con-jointed and black and each panel will measure 1.72m by 1.34m.
- 2.2 This application follows the refusal of a previous application (23/00722/FUL) for a scheme of a similar nature for the installation of 12no. solar panels. Planning permission is required for the solar panels as the property is subject to the Article 4 Direction, which removes permitted development rights for solar equipment.



### 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

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

S1 Sustainable Development Principles  
S3 Development within Defined Settlement Boundaries  
PD1 Design and Place Making  
PD2 Protecting the Historic Environment  
PD3 Biodiversity and the Natural Environment  
PD7 Climate Change

#### 3.2 Wirksworth Neighbourhood Development Plan (2015)

NP18 Enabling renewable energy developments

#### 3.3 Other

National Planning Policy Framework (2023)  
National Planning Practice Guidance  
Wirksworth Article 4 - Case for Direction (2014)  
Wirksworth Conservation Area Character Appraisal (2001)  
Climate Change Supplementary Planning Document (2021)

### 4.0 RELEVANT PLANNING HISTORY:

#### 4.1

18/00379/FUL	Provision of living accommodation into existing shop unit	PER	12/06/2018
18/00766/FUL	Change of use to Dwelling (C3 Use)	PERC	21/09/2018
23/00722/FUL	Installation of 12no. roof-mounted solar photovoltaic panels	REF	18/08/2023
04/02/0115	Advertisement Consent - Erection of externally illuminated hanging sign	PERC	24/06/2005
00/01/0042	Change of use from showroom studio and office to use for the provision of financial and professional services (use class A2)	A	23/02/2000

### 5.0 CONSULTATION RESPONSES

#### Derbyshire Dales District Council – Conservation:

5.1 A previous application (23/00722/FUL) for the installation of 12No. solar PV panels was refused planning permission.

The current application is for a very similar development comprising of the installation of 11No. roof mounted solar PV panels – 5No. to the west facing roof slope of the taller frontage block and 6No. to the south facing roof slope of the rear projection. The panels are to be con-joined and black and each panel will measure 1.72m x 1.34m.

The property is highly visible from the public realm on the east side (Dale End), the north side (The Dale) and the west and south sides (public car park). Furthermore, the building plays an important part in forming the corner property to this enclave of historic and listed buildings within the town centre.

The Article 4 Direction for Wirksworth was introduced & approved by the District Council to conserve the character and appearance of the Wirksworth Conservation Area and the many (un-listed) buildings of historic importance and value within the town centre. The Article 4 Direction removed a number of normally permitted development rights, including the installation of solar PV panels to roofs, in order to achieve and maintain that distinctive character and appearance. Under the Article 4 Direction, the approved 'Case for the Direction' (2014) stated that "*whilst the Local Planning Authority accepts the principle of renewable energy equipment for domestic properties it has a number of concerns relating to their introduction within the historic environment. These concerns relate to: the potential visual (and sometimes physical) impact that solar equipment could have on a particular property and, cumulatively on a group of properties and the wider Conservation Area*".

Furthermore, the Direction states that "*the topography of Wirksworth allows views and vistas of its roofscape to a significant degree. Historically, roofs were generally uninterrupted by any element, apart from chimneystacks, and therefore form an important part of the distinctive special character and appearance of an area. Under Schedule 2, Part 1, Class C, alterations to a roof that may diminish its character, such as rooflights, have been restricted since 1992 on all the properties covered by the Article 4 Direction. As stated in the 'discussion' relating to that particular Class, the Local Planning Authority considers that the inclusion of rooflights (as an example) could diminish the special character and appearance of the roofscape of the Conservation Area. In following that concern through to solar equipment (i.e. solar panels) on roofs, and indeed on the walls of a property, the Local Planning Authority considers that such equipment could, in some instances, present a harmful, visual, impact on the special character and appearance of the Conservation Area. That 'visual' impact can be defined in a number of ways –*

- *the glass/reflective nature of the solar equipment*
- *the number and extent of panels required/proposed on a roof plane(s)*
- *the pattern of the array over the roof plane(s)*
- *the quality (in construction/detailing) of the solar equipment*
- *the loss of view of the existing roofing material*
- *the cumulative impact of solar equipment on the roofscape of the Conservation Area (or parts thereof),*

*Some, or all, of the above can contribute to the visual inappropriateness of installing such equipment on a particular building, and the cumulative effect of a number of adjacent properties having such equipment on their roofs*".

It is considered that the proposed solar panels will introduce an alien grouping, texture and reflective quality in place of the existing matt finish, texture and appearance of the clay tiled roof finish. In that regard, it is opined that the proposed installation will be aesthetically detrimental and will significantly disrupt the general robustness and solidity of the current form/presence of the roof slopes and their intrinsic matt texture and character and unduly draw the eye to the panel installation to its roofs. Furthermore, the panels will be visible from various locations within the immediate public realm (as identified above).

Section 72(1) of the 1990 Act imposes a general duty on local planning authorities, in respect of Conservation Areas, to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. Furthermore, paragraph 205 of the NPPF (2023) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation. The Council's

adopted SPD on Climate Change (2021) advises, with regard to solar panels on new or existing buildings that “care must be taken to minimise their impact”, and, furthermore, measures including microgeneration on existing buildings “must be considered carefully” and, of particular relevance & pertinence to designated assets, “without harming heritage significance”.

It is considered that the proposed solar panel arrays would fail to preserve the character, appearance and heritage significance of the building and, consequentially, the character, appearance and heritage significance of the Conservation Area. In this regard, there is a finding of harm. It is considered that the level of harm would not be substantial and, in that regard, paragraph 208 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset (Conservation Area), that harm should be weighed against the public benefits of the proposal.

Whilst it is acknowledged that the use of solar panels to domestic (or commercial), properties can make a contribution, albeit small, towards reducing a wider reliance on fossil fuels, and that this could be considered as a general public benefit, it is advised that in line with the requirements of the 1990 Act, and the NPPF, considerable importance and great weight should be given to the preservation of heritage assets. Taking this *statutory duty* into regard, it is considered that the, general, public benefit of the installation, which would be deemed extremely modest, is heavily outweighed by the harm caused to the significance of the designated heritage asset, as identified and outlined above. In conclusion, therefore, the works, as proposed, would fail to preserve, or enhance, the heritage significance, character and appearance of the Conservation Area.

#### Conservation Advisory Forum

- 5.2 CAF discussed the re-submission. CAF noted that the building was a particularly interesting building type and of 18<sup>th</sup> century origin and that it was sensitively restored in the mid-1980s under the Wirksworth Project. CAF also noted that the building was an integral part and contributor to this small and sensitive group of buildings at this particular junction/location within the Conservation Area.

CAF wished to re-iterate their previous comments –

CAF acknowledged the topography, views, vistas etc. of the Wirksworth Conservation Area and that its roofscapes were a fundamental part of its significance and its special character and appearance. CAF noted that the roofscape of the town was a particular aspect and asset to the Conservation Area and in that regard, being protected under the Article 4 Direction, was deemed incredibly sensitive to change/alteration.

CAF considered the proposed visibility of the solar panels within the public areas/vantage points within the Conservation Area and a majority view concluded that they would be inappropriate and harmful to the character, appearance & significance of the building and the Conservation Area.

CAF concluded that the proposed development would significantly damage the character and appearance of the host building in this part of the Conservation Area and would be harmful to both the host building and Conservation Area.

#### Wirksworth Town Council

- 5.3 No comment, however, Wirksworth Town Council requests that any development or change seeks to reduce the carbon footprint” The Town Councils position will be that a building’s impact on the environment should be of greater importance than the impact on the streetscape.

Councillor Lucy Peacock

5.4 In support of the application.

Local Highways Authority

5.4 There are no objections to the proposed development from a traffic and highway point of view.

Please append the following informative to any consent for the applicant's attention: -

Informative:

The grant of planning permission shall not be construed as authority to erect scaffolding, hoarding or any other device or apparatus for which a licence must be sought from the County Council as Highway Authority. It should be noted that there is a fee associated with this process.

Derbyshire Wildlife Trust

5.4 We have reviewed the information provided and the Derbyshire Biological records database which shows a number of bat roost records within the local area. It is not clear from the photographs of the building whether there are any potential access points into the roof which could be used by roosting bats. If present these could be obstructed by the installation of solar panels.

Therefore, as a precaution we would recommend a Preliminary Bat Roost Assessment is undertaken prior to determination by a suitably qualified ecologist. Any evidence of nesting bird activity should also be recorded. This survey can be undertaken any time of the year and no works of any kind should be undertaken to the building until this assessment has been undertaken and a decision has been made by the LPA.

Paragraph 99 of Circular 06/2005 states "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances".

The results of the assessment should be presented in accordance with current guidelines, such as Ecological Report Writing (CIEEM, 2019) and Bat Conservation Guidelines (Collins, 2023). The report should make clear the requirement for any further survey work and it should be noted that if further survey is required, this should be undertaken prior to determination of the planning application. These surveys will need to be undertaken at the appropriate time of year, in line with the good practice guidelines (Collins, 2016). The report should include any requirement for licensing and details of mitigation and enhancement measures appropriate to the site.

## **6.0 REPRESENTATIONS RECEIVED**

6.1 Objections to the application have been received from a neighbouring resident at 1 The Dale as detailed below:

- The Dale and Greenhill is appreciated for its history and architecture by the local residents plus people visiting the area. Surely the use of solar panels fitted to what is a historical building of great interest would ruin its visual characteristic and the local environment.

- Please note the owner of this building does not reside at the property and its function is for business only so does not have the same emotional attachment.
- As a family we moved to this area as we appreciated its history and would like to preserve and protect its identity for future generations as a Conservation Area and fear if this application is granted what is there to stop other applications being granted.
- Please also take into account there are now properties on both The Dale and Greenhill being sold as holiday lets and rented accommodation so as a property owner, I feel objections to the above will be lower than usual so the need to object to this application is to preserve its continuation as a Conservation Area and abide by its rules.

## 7.0 OFFICER APPRAISAL

### Principle

- 7.1 Policies S1 and S3 allow for development within Wirksworth in principle. Policy PD7 states that the Council will promote a development strategy that seeks to mitigate global warming, adapts to climate change and respects environmental limits. This will be achieved by (amongst other things) supporting the generation of energy from renewable sources provided that the installation would not have significant adverse impacts.
- 7.2 Wirksworth Neighbourhood Plan Policy NP18 states that planning permission Planning permission will normally be granted for developments the main purpose of which is to provide power from renewable energy sources primarily for use in the plan area and its immediate vicinity, provided that they do not cause harm to landscape character, biodiversity and geodiversity interests, or heritage assets or their setting.
- 7.3 The property is located within the Wirksworth Conservation Area and is covered by the Article 4 Direction and therefore policy PD2 and the guidance contained within the Article 4 'Case for Direction' is relevant.
- 7.4 Policy PD2 requires the Council to conserve heritage assets in a manner appropriate to their significance and particular attention will be given to designated and non-designated heritage assets and their setting. It also requires development to take account of the local distinctive character and setting of the Conservation Area including open spaces and natural features and consider how the development may impact the character and appearance of the area.

### Impact on the character and appearance of the building and the wider Conservation Area

- 7.5 The Article 4 Direction for Wirksworth was introduced and approved by the District Council to conserve the character and appearance of the Wirksworth Conservation Area and the un-listed buildings of historic importance and value within it.
- 7.6 Under the Wirksworth Article 4 Direction, permitted development rights for the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on premises in order to achieve and maintain that distinctive character and appearance. It is recognised in the Direction that "*whilst the Local Planning Authority accepts the principle of renewable energy equipment...it has a number of concerns relating to their introduction within the historic environment. These concerns relate to: the potential visual (and sometimes physical) impact that solar equipment could have on a particular property and, cumulatively on a group of properties and the wider Conservation Area*".
- 7.7 The Article 4 Direction states that "*the topography of Wirksworth allows views & vistas of its roofscape to a significant degree. Historically, roofs were generally uninterrupted by any element, apart from chimneystacks, and therefore form an important part of the distinctive special character and appearance of an<sup>1</sup>area*".

- 7.8 The topography of Wirksworth is particularly relevant in this case, as the property is visible from the public realm from various vantage points such as Dale End (to the east), The Dale (to the north) and from the adjacent car park (to the south and west), so the panels will also be visible from the public realm.
- 7.9 The Direction also states that *"the Local Planning Authority considers that such equipment could, in some instances, present a harmful visual impact on the special character and appearance of the Conservation Area. 'Visual' impact can be defined in a number of ways:*
- the glass/reflective nature of the solar equipment*
  - the number and extent of panels required/proposed on a roof plane(s)*
  - the pattern of the array over the roof plane(s)*
  - the quality (of construction/detailing) of the solar equipment*
  - the loss of view of the roofing material*
  - the cumulative impact of solar equipment on the roofscape of the Conservation Area (or parts thereof).*

*Some, or all, of the above can contribute to the visual inappropriateness of installing such equipment on a particular building, and the cumulative effect of a number of adjacent properties having such equipment on their roofs".*

- 7.10 The District Council's adopted Supplementary Planning Document (SPD) on climate change (2021) further advises that care must be taken to minimise impact and development must not harm heritage significance.
- 7.11 The proposed panels will be installed across two different roof slopes of the property. The roofs are covered with traditional clay tiles. It is considered that the proposed panels will introduce an alien grouping, texture and reflective quality in place of the existing matt finish, texture and appearance of the clay tiled roof finish. In that regard, it is considered that the proposed installation will be aesthetically detrimental and will significantly disrupt the general robustness and solidity of the current form/ presence of the roof slopes and their intrinsic matt texture and character and unduly draw the eye to the installation. The panels will also be visible from various locations within the immediate public realm, as identified previously.
- 7.12 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on local planning authorities, in respect of Conservation Areas, to pay special attention to the desirability of preserving or enhancing the character or appearance of that Area. Furthermore, Paragraph 205 of the NPPF (2023) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation. The Council's adopted SPD on Climate Change (2021) states, with regard to solar panels on new or existing buildings, that "care must be taken to minimise their impact", and, furthermore, measures including microgeneration on existing buildings "must be considered carefully" and, of particular relevance & pertinence to designated assets, "without harming heritage significance".
- 7.13 It is considered that the proposed arrays would fail to preserve the character, appearance and significance of the building and, consequentially, the character, appearance and significance of the Conservation Area. In this regard, there is a finding of harm. Whilst it is considered that the level of harm would not be substantial, paragraph 208 of the NPPF states that where a development will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
- 7.14 Whilst it is acknowledged that the use of solar panels to commercial (or domestic) properties can make a contribution, albeit small, towards reducing a wider reliance on fossil fuels, and

that this could be considered as a general public benefit, it is advised that in line with the requirements of the 1990 Act, and the NPPF, considerable importance and great weight should be given to the preservation of heritage assets. Taking this statutory duty into regard, it is considered that the, general, public benefit of the installation, which would be deemed extremely modest, is heavily outweighed by the harm caused to the significance of the designated heritage asset, as identified above.

### Ecological Impact

- 7.15 Policy PD3 seeks to protect, manage, and where possible enhance the biodiversity and geological resources of the plan area and its surroundings by ensuring that development proposals will not result in harm to biodiversity and geodiversity interests.
- 7.16 No ecological survey information was submitted with the application. Comments have been received from Derbyshire Wildlife Trust advising that the Derbyshire Biological records database shows a number of bat roost records within the area. It cannot be established from the photographs of the building whether there are any potential access points into the roof which could be used by roosting bats. If present these could be obstructed by the installation of solar panels.
- 7.17 It is therefore considered that a Preliminary Bat Roost Assessment is undertaken prior to determination by a suitably qualified ecologist. Any evidence of nesting bird activity should also be recorded. This survey can be undertaken any time of the year and no works of any kind should be undertaken to the building until this assessment has been undertaken and a decision has been made by the Local Planning Authority.
- 7.18 As Insufficient information has been provided to allow for the assessment of the impacts of the development on protected species, the development is considered to be contrary to Policy PD3 of the Local Plan.

### Conclusion

- 7.19 It is considered that the proposed development would harm the character and appearance of the host building which is subject to an Article 4 Direction and also harmful to the character and appearance of the Conservation Area. The development would result in limited public benefit but this would be clearly outweighed by the harm that has been identified. Insufficient information has also not been provided to allow for the assessment of the impacts of the development on protected species. The development is therefore contrary to policies PD1, PD2, PD3 and PD7 of the Derbyshire Dales Local Plan, the Council's adopted Climate Change SPD, Policy NP18 of the Wirksworth Neighbourhood Plan and the National Planning Policy Framework. In the absence of any further material considerations the application is therefore recommended for refusal.

## **8.0 RECOMMENDATION**

That planning permission be REFUSED for the following reasons:

1. The proposed solar panel installation would harm the character and appearance of the host building which is subject to an Article 4 Direction and would harm the character and appearance of the Wirksworth Conservation Area. This harm would not be outweighed by the limited public benefits arising from the development. The development is therefore contrary to policies PD1, PD2, PD7 of the Adopted Derbyshire Dales Local Plan (2017), the Climate Change Supplementary Planning Document (2021), Policy NP18 of the Wirksworth Neighbourhood Plan and the National Planning Policy Framework (2023).

2. Insufficient information has been provided to allow for the assessment of the impacts of the development on protected species contrary to the aims of policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2023).

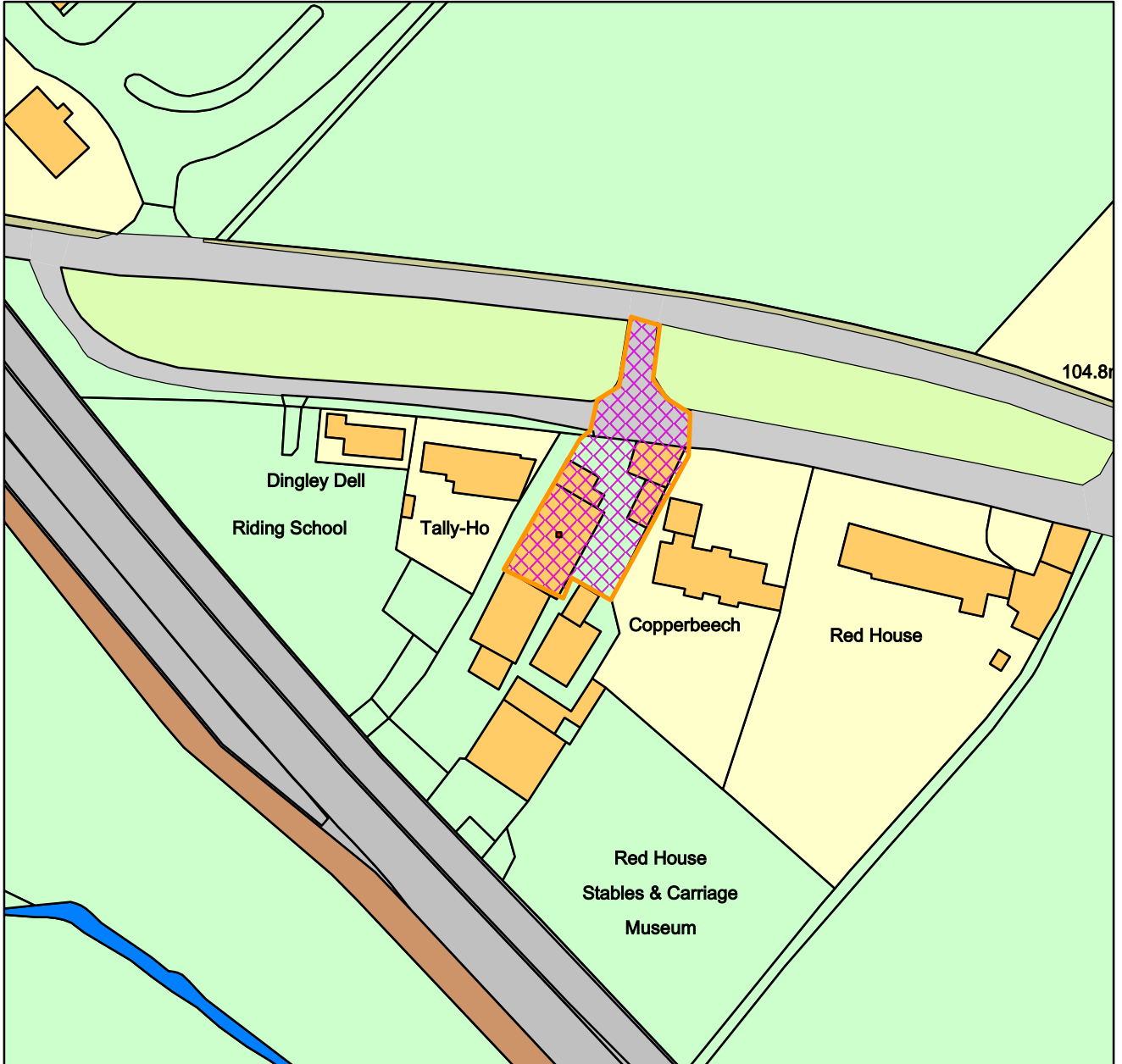
## **9.0 NOTES TO APPLICANT:**

1. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.
2. This decision relates to the following plans and documents:
  - Location Plan and Block Plan, Drawing No. 1283/P01 Rev A received 14.12.2023
  - Proposed Elevations, Drawing No. 1283/P04 Rev A received 14.12.2023
  - Existing and Proposed Plans, Drawing No. 1283/P02 Rev A received 14.12.2023
  - Proposed Sections, Drawing No. 1283/ P01 Rev A received 14.12.2023
  - Design, Access and Heritage Statement received 14.12.2023
  - Solar Panel Specifications received 14.12.2023



23/00916/FUL

Red House Stables, Old Road, Darley Dale



Derbyshire Dales DC

1:1,250

Date: 09/02/2024

100019785

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website : [www.derbyshiredales.gov.uk](http://www.derbyshiredales.gov.uk)

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<b>APPLICATION NUMBER</b>		23/00916/FUL	
<b>SITE ADDRESS:</b>		Red House Stables, Old Road, Darley Dale, Derbyshire, DE4 2ER	
<b>DESCRIPTION OF DEVELOPMENT</b>		Change of use from museum and exhibition space to (class E) antique, salvage, recycled and vintage collectables shop	
<b>CASE OFFICER</b>	G Huffen	<b>APPLICANT</b>	Mr N Russell
<b>PARISH/TOWN</b>	Darley Dale	<b>AGENT</b>	N/A
<b>WARD MEMBER(S)</b>	Cllr D Burton Cllr M Franks Cllr R Shelley	<b>DETERMINATION TARGET</b>	19.01.2024 (Extension of Time)
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Called in by Ward Member.	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To enable Members to appreciate the site and context.

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

<b>RECOMMENDATION</b>
That permission be granted subject to conditions as set out in section 8.0 of the report.

## 1.0 THE SITE AND SURROUNDINGS

1.1 The application site is located off the southern side of Old Road, Darley Dale and accessed via a unadopted access road owned by the District Council. The last lawful use of the site was a carriage museum associated with the equestrian use of the site as a whole. There are a number of more contemporary buildings to the front (northern) part of the site (to which this application relates) with stable/ agricultural style buildings forming part of the rear (southern) part of the overall site.



## 2.0 DETAILS OF THE APPLICATION

2.1 Retrospective planning permission is sought for the change of use of land and buildings (in part) for the retail and storage of antique, salvage, recycled and vintage collectables. The site is open for sales five days a week, 3 days over the working week (Monday to Friday) and at the weekend. The opening hours are indicated as 11:30am to 4:30pm. The business is also open on bank holidays.

### 3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

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

- S1: Sustainable Development Principles
- S2: Settlement Hierarchy
- S4: Development in the Countryside
- PD1: Design and Place Making
- PD5: Landscape Character
- PD6: Trees, Hedgerows and Woodlands
- PD9: Pollution Control and Unstable Land
- HC19: Accessibility and Transport
- EC1: New and Existing Employment Development
- EC8: Promoting Peak District Tourism and Culture

#### 2. National Planning Policy Framework (2023) National Planning Practice Guidance

### 4.0 RELEVANT PLANNING HISTORY:

1194/0700	RENEWAL OF PLANNING PERMISSION FOR RANCH HOUSE (WED/0984/0632)	A	12/12/1994
1190/1019	RENEWAL OF PERMISSION FOR CARRIAGE MUSEUM AND USE OF VAN BODY FOR FODDER STORAGE (WED0985/0714)	A	06/02/1991
0985/0714	CHANGE OF USE FROM STORAGE TO CARRIAGE MUSEUM AND ERECTION OF VAN BODY FOR FODDER STORAGE	A	06/11/1985
0984/0632	RANCH HOUSE	A	08/11/1984
01/05/0339	Demolition of stables and erection of house and garage	R	05/07/2001
00/06/0426	Demolition of outbuildings and construction of dwelling and garage	W	31/07/2000

### 5.0 CONSULTATION RESPONSES

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

5.1 There are no objections to the proposed development from a traffic and highway point of view.

#### Darley Dale Town Council

5.2 Councillors felt that there is insufficient information for the Town Council Planning Committee to make an informed recommendation. After discussing the applications with the applicant and neighbours to the development site the Town Council Planning Committee would again request that District Planning Officers conduct a site visit to examine all three

applications in conjunction with each other to better understand the overall development and impact on neighbouring homes/streetscape.

Peak & Northern Footpaths Society

5.3 No objection.

Ramblers Derbyshire Dales Group

5.4 Ramblers Derbyshire Dales Group has no objection providing that:  
i) Darley Dale FP 25 remains unaffected at all times, including the path surface, both during and after any development.

DDDC Environmental Health

5.5 No objections to this application.

## **6.0 REPRESENTATIONS RECEIVED**

6.1 None received.

## **7.0 OFFICER APPRAISAL**

The following material planning issues are relevant to this application:

- Principle of development
- Impact on amenity of neighbouring residents
- Impact on the character and appearance of the surrounding landscape
- Impact on highway safety

### Principle of Development

- 7.1 The application site is located outside of the defined settlement boundary of Darley Dale as identified by policy S2 of the Adopted Derbyshire Dales Local Plan (2017). The principle of the development should therefore be assessed against policy S4 which relates to development proposals in countryside locations.
- 7.2 Policy S4 states that development will be permitted in such a location where it comprises “the sustainable growth of tourism or other rural based enterprises in sustainable locations where identified needs are not met by existing facilities” and “it comprises rural employment development including home working, commercial enterprises and live-work units”.
- 7.3 Policy EC1 of the Adopted Derbyshire Dales Local Plan (2017) states that the District Council will support proposals for new or expansion of existing business or industrial development in sustainable locations that contribute towards the creation and retention of a wide range of jobs. This will be achieved by encouraging the redevelopment, intensification and more efficient use of existing sites where they are either not fully utilised or unsuited to modern employment requirements, particularly those sites located within or serving the Market Towns and those with good access by a variety of transport modes and supporting employment development outside of allocated employment sites but within the built up area when it would not create harm to the character, appearance or amenity of the area amongst other considerations.
- 7.4 The re-use of the site for the sale of collectables represents a continued use of the site for commercial purposes, albeit falling within the D1, now F.1 Use Class. As the operation is located to the northern part of the site and utilises existing buildings, it also does not lead to excessive encroachment or expansion of development away from existing buildings. The nature of the business selling antique, salvage, recycled and vintage collectables also offers further tourism opportunities within the area. 30

- 7.5 The enterprise is also sustainably located, as although the site is not necessarily "edge of settlement" as there is intervening agricultural land, the services and facilities of Darley Dale are within an approximate 10-minute walk of the site.

Impact on amenity of neighbouring residents

- 7.6 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires development proposals to achieve a satisfactory relationship with adjacent development and not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity. Policy PD9 seeks to protect people and the environment from polluted environments, including noise.
- 7.7 Although the Red House Stables site has been predominantly used for commercial purposes, it is located in an area predominantly used for residential purposes, with two dwellings located to the west of the site and two to the east.
- 7.8 Although no concerns have been raised by neighbouring occupiers in respect of the application, it is considered that conditions be attached securing the operating hours, delivery hours and type of Class E (Commercial, business and service) use that can be operated from the site, in order to safeguard the amenity of the neighbouring occupiers.
- 7.9 Subject to the above conditions the development is not considered to result in any significant impact on the amenity of any nearby residents and the development would be in accordance with policies PD1 and PD9 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

Impact on the character and appearance of the surrounding area and landscape

- 7.10 A key consideration in respect of this application is the impact of the development on the local landscape and character. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) advises that development will conserve and where possible enhance the natural and historic environment.
- 7.11 Policy PD1 requires all development to be of high-quality design that respects the character, identity and context of the Derbyshire Dales' townscapes and landscapes.
- 7.12 Policy PD5 deals specifically with landscape character and advises that development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.13 It is noted that there is a Lime tree to the north-east of the site that is subject to a Tree Preservation Order (TPO 013/T4), however due to the nature of the development and location of tree it is not considered that the proposed use of the site will have an impact on the tree. The development is therefore considered to be in accordance with the criteria of Policy PD6 of the adopted Local Plan.
- 7.14 The external storage on site is largely concealed by the buildings to the front of site and the boundary wall with the neighbouring property. The application does not seek any further buildings on site and would instead utilise existing buildings.
- 7.15 Based on the above, and subject to a condition securing that the items on site are not stored above a height of 2 metres, preventing adverse impact on visual amenity, the development is not considered to result in any harm to the character and appearance of the countryside location and would be in accordance with policies S1, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

### Impact on highway safety

- 7.16 The site is accessed via an unadopted road (owned by the District Council). Based on the previous use of the site it is not considered that the new use would result in an intensification in traffic to the site resulting in a traffic or highway safety issue. As noted previously the site is also reasonably accessible from Dale Darley via foot/ public transport so could be accessed by means other than by car.
- 7.17 The Local Highway Authority have raised no concerns with the proposed development in terms of traffic or highway safety. The development is considered to be in accordance with policies S4 and HC19 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

### Impact on tourism opportunities

- 7.18 Policy EC8 advises that tourism and provision for visitors which is appropriate to the settlement, will be supported as it strengthens the tourism role of the plan area and supplements the tourism offer of the Peak District National Park. This is subject to criteria which includes the scale and nature of the activity being appropriate, that the proposal supports sustainable tourism and that it does not impact on the character and appearance of the Local Landscape.
- 7.19 The site was previously utilised as a carriage museum and coaching business, with the museum having a collection of historic carriages and related accessories. Following the closure of this operation, the change of use for the sale of collectables was started. Although no longer operating as a museum or for carriage rides, the nature of the business may remain an attractive offering for tourists to the area. Although outside of settlement, the site is accessible via short walk from Darley Dale.
- 7.20 A number of conditions have been recommended to prevent the use having an adverse impact on the character and appearance of the landscape surrounding the site.

### Conclusion

- 7.21 Based on the above assessment, the proposed development is considered to be in accordance with the aims of policies within the Adopted Derbyshire Dales Local Plan (2017) and a recommendation of approval, subject to conditions is made accordingly.

## **8.0 RECOMMENDATION**

That planning permission be granted subject to the following conditions.

1. The development hereby approved shall not be carried out other than in accordance with the following approved plans

- 01 - Amended Site Location Plan, 1:1250 scale (received 04/01/2024)
- 02 - Amended Block Plan, 1:500 scale (received 04/01/2024)
- 03 - Block Plan of Access (received 12/10/2023)
- 04 - Proposed Block Plan (with Buildings Annotated) (received 12/10/2023)

Reason:

For the avoidance of doubt.



2. The use of the site hereby permitted shall only operate between the hours of 11:30 to 16:30 Mondays to Sundays.

Reason:

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

3. The delivery of goods to and from the site shall be limited to the hours of 8am-6pm Monday to Friday and 8am-1pm Saturday with no deliveries on Sundays and Bank Holidays.

Reason:

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

4. No goods shall be placed, stacked or stored above a height of 2 metres above the existing ground level without the prior approval in writing of the Local Planning Authority.

Reason:

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

5. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the site shall only be used for storage and sale of antique, salvage, recycled and vintage collectables and for no other purpose, including any other activity within the same E class of the schedule to that Order.

Reason:

In the interests of visual amenity and to protect the residential amenity of the occupants of nearby dwellings in accordance with Policies PD1 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

## **9.0 NOTES TO APPLICANT:**

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised plans demonstrating the extent of the development.

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<b>APPLICATION NUMBER</b>		23/00684/FUL	
<b>SITE ADDRESS:</b>		R P C Commercials, Thurvaston Lane, Longford	
<b>DESCRIPTION OF DEVELOPMENT</b>		Erection of 6 no. commercial / industrial units (Use Classes E(g)(ii) - Research and Development and B8 - Storage and Distribution) (Resubmission)	
<b>CASE OFFICER</b>	Mr Chris Whitmore	<b>APPLICANT</b>	R P C Commercials
<b>PARISH/TOWN</b>	Longford	<b>AGENT</b>	Mr Richard Pigott, Planning & Design Practice Ltd
<b>WARD MEMBER(S)</b>	Cllr. G. Bond	<b>DETERMINATION TARGET</b>	24 <sup>th</sup> August 2023 (EOT agreed until 15 <sup>th</sup> December 2023)
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	More than 5 unresolved objections.	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	To consider the impact of the development on the environment

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Planning policy context and sustainability of location;</li> <li>• Highway safety;</li> <li>• Residential amenity considerations.</li> <li>• Impact on the setting of a Scheduled Monument;</li> <li>• Impact on the character and appearance of this part of the countryside, and;</li> <li>• Ecology and biodiversity net gain considerations.</li> </ul>

<b>RECOMMENDATION</b>
<p>That the application be approved subject to conditions, following the completion of a unilateral undertaking to relinquish 7 tractor unit and 14 trailer unit operator licences and which covenants the landowner(s) not to obtain any additional licences in the future.</p>

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

- 1.1 The site is located in open countryside on Thurvaston Lane and approximately 1.6 miles south east of Longford. The site extends to 0.79 ha and is occupied by the applicant and in use for truck sales with ancillary offices, workshop and open storage.
- 1.2 The nearest neighbouring properties are Crowtrees Farm and Croft House to the north and New House, Mount Farm and the properties at Thurvaston Mount to the west of the site. New House is occupied by the owner of the site.
- 1.3 The site is accessed from Thurvaston Lane. Longford footpath 54 passes to the north of the site and footpath 53 passes along the eastern site boundary.

## **2. THE APPLICATION**

- 2.1 The proposed development comprises six commercial / industrial units falling within use Classes E(g)(ii) research and development and B8 storage and distribution. The new units will operate alongside the existing business.
- 2.2 The application comprises a resubmission of application code ref. 22/00507/FUL and seeks planning permission for the same development in terms of the size, design and siting of the building proposed and associated parking and yard area, however, it does not propose general industrial (Class B2) use and is accompanied by additional information to address the various reasons for refusal, namely:
  1. *The site is located in a remote location in open countryside away from any settlement or public transport such that employees and visitors would be heavily reliant on the private car to access the site. As such the proposal would be an unsustainable form of development contrary to policies S1, S4, PD7, HC19 and EC1 and the National Planning Policy Framework.*
  2. *The development would result in additional commercial traffic on the local highway network of narrow lanes. This additional traffic would conflict with other road users to the detriment of their safety and amenity contrary to policies S4, HC19 and the National Planning Policy Framework.*
  3. *The development would result in noise and light pollution which would harm the amenity and tranquility of the local area and the residential amenity of nearby neighboring properties contrary to policies S1, PD1, PD9 and EC1 and the National Planning Policy Framework.*
  4. *Insufficient information has been provided to assess the impact of the development upon the adjacent Scheduled Monument (Lower Thurvaston medieval settlement, including part of the open field system) or its setting contrary to policy PD2 and the National Planning Policy Framework.*
  5. *Insufficient information has been provided to assess the impact of the development upon biodiversity and the natural environment contrary to policy PD3 and the National Planning Policy Framework*
- 2.3 The units would be located within one building on the southern part of the site and provide 715m<sup>2</sup> of additional floor space. The building would measure 53.7m long by a maximum of 16m deep. The southernmost part of the building would be dug into the ground levels with a maximum height of 5m to eaves and 7.8m to ridge above adjacent ground level. This part

of the building will be slightly deeper, breaking its mass and resulting in an appearance of two conjoined buildings.

- 2.4 Each unit would be provided with a roller shutter door to the west elevation and pedestrian door to the east elevation. A small W.C. block would be located on the north of the building. The roof of the main building would be clad with green metal sheeting as would the upper sections of the walls above concrete panelling. The toilet block would be faced in red brick and plain clay tiles.
- 2.5 The existing access would be utilised and shared with the existing business which would be retained on the northern part of the site. Access would be provided to the front of the units along with 12 parking spaces. A sustainable urban drainage system (SuDS) is proposed through the creation of an attenuation or infiltration basin or swale at the southern part of the site.
- 2.6 It is proposed to limit the business's current operations to alleviate concerns about the existing business intensifying alongside the proposed new business units. At present, the business has an operator's licence for 10 x 44 tonne GVW tractor units and 18 tri-axle trailers but this licence is not fully utilised. It is proposed to relinquish 7 x tractor unit operator licences (retaining 3) and 14 trailer units (retaining 4). This is to be secured using a unilateral undertaking (a form of planning obligation which runs with the land, is legally binding and enforceable). The unilateral undertaking will mean that the existing business will relinquish its existing operator's licences (minus the 3 and 4 to be retained) and will not obtain any more operator's licences in the future.
- 2.7 The resubmitted application is accompanied by an Arboricultural Impact Assessment Survey and Report, Drainage Strategy and Archaeological Desk Based Assessment. These documents have been made available for examination and comment and circulated to consultees. They are referred to, where necessary, and pertinent in the officer appraisal section of this report.

### 3.0 RELEVANT PLANNING HISTORY:

22/00507/FUL	Erection of 6 no. commercial/ industrial units (Use Classes E(g)(ii) - Research and Development , B2 - General Industry and B8 - Storage and Distribution)	Refused	29/06/2022
14/00073/VCOND	Section 73A Application - Removal of occupancy condition 4 of planning permission WED/182/14	Refused	23/01/2015
02/05/0419	Erection of 3 dwellings and conversion of existing barn to dwelling (outline)	Refused	11/09/2002
01/10/0728	Erection of 3 dwellings and conversion of existing barn to dwelling (outline)	Refused	12/12/2001
WED/983/608	Extension to Workshop of Office Accommodation	Granted	15/09/1983
WED/182/14	Erection of Dwelling	Grated	08/01/1982

## 4.0 POLICIES:

### Adopted Derbyshire Dales Local Plan 2017

S1 Sustainable Development Principles  
S4 Development in the Countryside  
PD1 Design and Place Making  
PD2 Protecting the Historic Environment  
PD3 Biodiversity and the Natural Environment  
PD5 Landscape Character  
PD6 Trees, Hedgerows and Woodlands  
PD7 Climate Change  
PD8 Flood Risk Management and Water Quality  
PD9 Pollution Control and Unstable Land  
HC19 Accessibility and Transport  
EC1 New Employment Development

### Other:

The National Planning Policy Framework (2023)  
National Planning Practice Guide  
Derbyshire Dales District Council Climate Change Supplementary Planning Document (2021)

## 5.0 CONSULTATIONS:

### 5.1 Longford Parish Council:

*Comments received 18<sup>th</sup> July 2023:*

Object. The proposed development is contrary to Policy S4 Para (a) and (r).

The development would generate a significant increase in traffic on the lightly used and very narrow access road which is basically a single lane rural road with blind bends and soft verges, well used by local dog walkers, horse riders and cyclists who enjoy the benefits of this lovely quiet route. The barn conversions at Mount Farm will be facing this development and subject to noise, lighting etc which would have an adverse impact on the character and appearance of the rural area.

Also contrary to Policy PD9 Para (a) (b) (c).

This site has been a lorry yard for at least 50 years and therefore will be contaminated ground, the development therefore has the potential for the runoff to be contaminated and impact the surrounding land and watercourses. The fact that RPC Commercial has an operators licence for 10 vehicles and 18 trailers does not mean this is the amount of vehicles going to and from the site on a daily basis. Reducing the 'marginal option' on the licence does not automatically reduce the vehicular movements, if anything allowing 6 units to be built for storage and distribution could significantly increase vehicle movements on a daily basis as by the very nature of storage and distribution units, they need to be serviced by vehicles.

*Comments received 10<sup>th</sup> November 2023:*

We have been contacted by parishioners concerned about the response of the Local Highway Authority (LHA) dated 9th October 2023 to this planning application and we consider that the LHA response is seriously flawed.



1. The LHA clearly does not understand (and does not mention) the road access to the site which is single track for nearly 1km towards the junction with Long Lane (north east of the site). In the other direction towards Longford Lane it is even narrower, with sharp blind bends.
2. It does not assess for itself the potential traffic associated with the application and the suitability of the roads for that traffic. It also carries out a flawed comparison with current traffic based on a misunderstanding of what the current traffic actually is. It takes at face value the applicant's Transport Statement that 161 two-way vehicle movements could be generated at present and says that "the overall decrease in HGV movements will be significant". This is not true, and there are few HGV/LGV movements at present despite the vehicles permitted by the applicant's Operator's Licence. Even against this significant overestimate of the current traffic it says "there is a net increase in peak hour movements" of traffic associated with the application without considering the suitability of the roads for it.
3. It mentions the vehicles permitted by the Operator's Licence. This licence is subject to review every 5 years and the suitability of the Operating Centre is a topic for review. This means that excessive (large) traffic on this lane that is already unsuitable for HGVs/LGVs would be valid grounds for objection.
4. The LHA response says "The applicant has stated that should planning permission for the 6no. commercial/light industrial units should not be granted; the applicant's intention is to reorganise the site to improve productivity of the existing uses. This cannot be controlled under Planning regulations and the resultant traffic particularly for HGV's could increase from this situation which is not ideal". This is not relevant to the LHA assessment of this application and isn't even true – change of use or new buildings would be subject to planning consent and the suitability of the site for HGV/LGV use forms part of the Operator's Licence 5 yearly review. We note that the LHA does recognise that more traffic than at present is 'not ideal'.

We request that this LHA response is revisited. Given the nature of this application this should include a visit to the roads and site, a traffic survey to understand the actual current traffic, an independent assessment of the potential traffic associated with the application and an objective assessment of the suitability of the roads for that traffic. We also request that the application is considered by the Derbyshire Dales Planning Committee.

## 5.2 Local Highway Authority (DCC):

The applicant/agent has submitted a Transport Statement (TS) alongside the planning application to assess the overall traffic impact of the scheme and the potential changes in site conditions when surrendering part of the Operator's Licence.

The TS ensures that a methodical decision is made and is based on a thorough investigation of the traffic/transport information available, whilst also assessing the traffic impact the proposals would have on the existing highway network. The TS identifies that the existing site's operations (vehicle sales and repair) could produce approximately 16 two-way vehicle trips in the morning peak and 11 two-way vehicle movements in the evening peak hour, where a total of 161 two-way daily vehicle movements could be generated. The overall net change in site conditions because of development is a reduction in floor areas as follows: -

- Vehicle sales – reduction of circa 1,200sqm (2,700sqm to remain)
- Vehicle servicing and repairs – reduction of circa 760sqm (1,040sqm to remain)

The TS also identifies that the proposed new units could result in up to 7 two-way vehicle trips during the morning and evening peaks, with up to 61 two-way daily vehicle movements.

The units will have two assigned car parking spaces per unit, with vehicle trips likely to be small vans and transit vans and the occasional delivery and other servicing movements.

It is noted that although there is a net increase in peak hour movements resulting in an overall minor increase in daily trips of lighter commercial traffic. It is noted that the owner/applicant currently has an Operator's Licence at the site for 10 x 44 tonne GVW tractor units and 18 tri-axle trailers, which when fully operational could occupy a significant part of the site and generate a significant amount of HGV traffic.

As part of the proposed development, it is understood that the site owner/applicant is willing to reduce the Operator's Licence at the site to 3 x 44 tonne GVW tractor units and 4 tri-axle trailers. This results in a 70% reduction in HGVs and a 78% reduction in trailers. The overall decrease in HGV movements will be significant.

The owner/applicant is willing to partake in a unilateral undertaking in this regard. The proposed development will reduce the Operator's Licence associated with the site and reduce the size of the area of the existing vehicle repair and vehicle sales space to accommodate 6no. industrial units.

The applicant has stated that should planning permission for the 6no. commercial/light industrial units should not be granted; the applicant's intention is to reorganise the site to improve productivity of the existing uses. This cannot be controlled under Planning regulations and the resultant traffic particularly for HGV's could increase from this situation which is not ideal.

It is evident from the submitted TS that reducing the Operator's Licence to 3 vehicles and 4 trailers together with the proposed development in place, results in an overall Heavy Goods Vehicle reduction in peak periods and daily movements. The previous highway related concerns and traffic impact has been addressed in the TS. On balance, there are no objections to the proposed development from a traffic and highway point of view subject to the following:

The owner/applicant enters a unilateral undertaking on the reduction of the Operator's Licence HGV/trailer numbers where the parties have agreed to enter into such an agreement with the intention that the obligations contained in the agreement may be enforced by the Council and or the County Council against the developer and the owner and its successors in title.

and a condition to secure parking and informative.

### 5.3 Development Control Archaeologist (DCC):

#### *Initial Comments:*

The proposed development area lies directly adjacent to a designated Scheduled Ancient Monument (NHLE 1017362) recorded in the Derbyshire HER (MDR 2626) the remains of which comprise holloways, building platforms, and fossilised field systems. The standing earthworks at the southern edge of the site have been denuded by field improvement prior to scheduling (in 1976). Brief recourse to publicly available LiDAR demonstrates that a possible holloway and possible crofts lie in the field immediately adjacent (to the west) which I infer are almost certain to extend into the proposal site. The fact that vestiges of the previous occupation of the site are no longer visible as upstanding remains on the site is the reason that this part of the site was not included in the original scheduling. However the juxtaposition of the site to the scheduled areas demonstrates that there are likely to be below ground remains relating to the Ancient Monument present within the PDA. In my previous response I advised that further archaeological work would be necessary pre-determination

and I advised that a tiered approach to the site was necessary, to include a Heritage Impact Assessment (to also include impacts of drainage scheme) followed by archaeological evaluation trenching. I note the inclusion of a Heritage Note with the reapplication, however this does not meet the standard of the appraisal required and the application as it stands falls short of the benchmark outlined by Para 194 of NPPF, the text of which states (*italics my emphasis*).

“local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.”

Please also contact your Conservation Officer and Historic England regarding the building design and whether that may impact on the setting of the monument. In terms of the buried archaeology, the applicant has not met the threshold of Para 194 of NPPF and therefore I object to the proposal as it currently stands.

*Comments following receipt of the Archaeological Desk Based Assessment:*

I have previously had sight of the Archaeological Desk Based Assessment for this proposed development which is a good piece of work and correctly identifies the potential for there to be medieval archaeological deposits on the site given its juxtaposition with both the scheduled areas to the west and to the south-east. I am less convinced by the speculation that the potential impacts of the proposed development will affect only agricultural remains of medieval date likewise the speculation that any early medieval remains would be agricultural in origin.

This notwithstanding the desk based assessment highlights the potential for there to be archaeological interest on the site. What we do not yet know is whether levelling of any presumed earthworks on the site involved truncation and removal (levelling down) or the pushing over of any extant banks etc to effectively level the site up and this will have a bearing on the levels of preservation and the quality of preservation on the site. I have no objection in principle to development and in an ideal world I would recommend a further stage of archaeological works pre-determination. I do however accept that siting evaluation trenches within the proposed development area while it is a working business would not be ideal either for the pursuance of the business itself nor the effective execution of pre-determination archaeological works. I am therefore, for the sake of balance, qualifying my previous advice of 10th July and removing my recommendation for pre-determination evaluation works.

Further stages of archaeological works will however be necessary and should comprise:

- a programme of archaeological evaluation trenching and reporting
- any necessary archaeological mitigation works which may range from open area archaeological excavation and recording to scalable archaeological monitoring depending on the results of the evaluation trenching.

These works can be conditioned into any planning consent, should you be minded to grant said, under the provisions laid down under paragraph 211 of the National Planning Policy Framework (as revised in December 2023).

All works should be in accordance with a bespoke written scheme of investigation (WSI), pre-approved by this office in writing before implementation. The WSI should be compiled by the archaeological organisation commissioned to undertake the works in the field and should be undertaken to recognised industry standards, in line with the appropriate qualitative standards of field practice and recording as outlined in the current key methodological literature (for example Barker 1993, Roskams 2001). All archaeological works should be undertaken by a suitably experienced archaeological organisation with suitably and importantly demonstrably experienced archaeologists undertaking the work on the ground.

#### 5.4 Derbyshire Wildlife Trust:

We have checked our biodiversity datasets and we are now aware of any nature conservation features directly associated with this site. The site appears to be in use at the moment and comprises a large area of hardstanding. It seems unlikely that the proposal will impact any protected species or result in a measurable biodiversity loss. Therefore, we do not consider that an ecological assessment is necessary in this instance. The recommendations relating to trees should be implemented in order to avoid an impact on tree/s within the site.

#### *Biodiversity Enhancement / Net Gain*

- The development should include some measures to provide a net gain for biodiversity. This could be achieved through one or more of the following:-
- Inclusion of a brown or green roof – one or more roof or part of the roof of a new building could potentially be used to establish a brown or green roof
- Wildlife friendly landscaping could include planting native trees and shrubs and / or
- an area of pollinator friendly plants could be sown and managed either as a meadow or in tubs or beds.

If the Council is minded to approve the development, a condition for Biodiversity Enhancement and Management Plan and a tree protection condition are recommended.

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

Derbyshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the information submitted for this application, which was received on 4/7/2023. As this is a minor application the Lead Local Flood Authority (LLFA) has no formal comment to make and would refer the applicant to our informatives.

#### 5.6 Derbyshire County Council Rights of Way:

I can confirm that Longford Public Footpath No. 53 runs adjacent to the east of the proposed development site, as shown in red on the attached plan. Longford Public Footpaths Nos.14 and 54 both emerge onto Thurvaston Lane just north of the site.

In view of the potential for increased traffic, consideration needs to be given to any necessary measures or signage to mitigate risks for Footpath users as they emerge from FP 14 and FP 54 onto Thurvaston Lane. In order to ensure continued enjoyment of FP 53, it would be desirable for the vegetation to the east of the site, between the path and the development, to be sufficient to act as screening.

The Rights of Way Section has no objection to the proposals as it appears that the routes will be ultimately unaffected by the proposed works.

An informative relating to the right of way is recommended.

## 5.7 Peak and Northern Footpaths Society:

No objection provided that the full width of Longford Footpath 53 is unobstructed at all times. The vegetation on the eastern boundary of the site should be augmented as necessary to screen users of the path from the sight of the development and any noise which might be generated.

## 5.8 Trees and Landscape Officer (Derbyshire Dales District Council):

### *Trees*

The submitted Arboricultural Impact Assessment (AIA) report indicates that the only trees at the site are located around the property boundary and of these all are indicated for retention except 2 low quality ash trees.

The proposed removal of the 2 ash would be required to allow construction of a proposed attenuation pond on site. Their loss would not be unacceptable though I recommend that replacement planting of appropriate native tree species should be required in similar locations to the removed trees.

The AIA indicates that relatively minor pruning of part of the canopy of a high quality mature oak tree will also be needed to facilitate construction works. It is not anticipated that this work would be harmful to the tree, though the pruning should be minimised as far as practical and undertaken to the guidelines provided by BS 3998 (2010) with no cuts exceeding 100mm diameter. This is to protect the health and amenity of the tree. Existing deadwood should be retained where it is considered safe to do so because it can provide valuable biodiversity resource.

The tree protection guidance provided by this document is considered insufficiently detailed. I recommend that detailed site-specific tree protection measures should be submitted for approval in the form of an Arboricultural Method Statement. This should be required to discharge a condition to any grant of planning consent. I am particularly concerned that temporary tree protection fencing be erected in the correct positions and also that no trenching for drainage / services, or ground level change or new surfacing should occur within the root protection areas of retained trees. A Tree Protection Plan drawing to scale and showing lay-off distances between tree stems and tree protection fencing / ground protection should be included.

### *Landscape*

The proposed new building is relatively large and is located within a rural, agricultural and low lying landscape. I recommend that the Planning Officer should consider the potential impact of the proposals to the character and appearance of the local landscape and how it would be perceived by users of the nearby road.

Perhaps its impact may be softened somewhat by planting of several additional appropriate native trees at suitable locations within the site to provide screening and greening.

## 6.0 REPRESENTATIONS:

Twelve representations have been received which raise the following concerns:

### Principle

- Having reviewed the application that was turned down in June 2022 nothing has fundamentally changed, other than the owners offering to give up an operators licence that they are not actually using.
- The proposed development is contrary to Policy S4 Para (a) and (r).
- In our opinion if the owners need to realise profits from the land and subject to the relevant planning it would seem to us a small development of new homes would be the answer, a development like this might produce 8 / 10 additional smaller vehicles coming and going which would be sustainable on the narrow lane.
- Myself and 2 neighbours were shown by the owners son where the proposed buildings would be sited and I have no objection to the proposed location, or to the erection of the buildings. Nor would I object to proposed usage for 'light industrial use', or research and development'. My main concern is the possible use for 'storage and distribution'. This could entail a multitude of different possibilities, from the occasional drop-off and collection, to multiple visits to the units throughout the day which would significantly increase traffic on the narrow lane between RPC and Longford Lane.
- I would actively support the erection of housing on the site which would be classed as 'brown field' anyway, and would not mean the loss of any green field sites in the area.
- I have always stated if warehousing and distribution was not part of the planning I would have no objections, but distribution by its very nature means many many vehicle movements per day and until the units are let it is simply impossible to " Guess " how many movements this might be.

#### Highway matters

- There is no public transport access available for this site which is reached only by narrow lanes, mostly one vehicle width with no proper passing places and pavements. The visibility at the junctions of two of the lanes and Long Lane is very poor. Any increase in traffic created by this development would be detrimental to the existing users, which I am one, and increase the possibility of vehicle and pedestrian collisions. The access roads are totally unusable for any further development.
- The development would result in additional commercial traffic on the local highway network of narrow lanes. This additional traffic would conflict with other road users to the detriment of their safety and amenity contrary to policies S4, HC19 and the National Planning Policy Framework.
- The development would result in noise nuisance and an increase in traffic on narrow country lanes.
- I understand the requirement of the owners to make additional profits from the land but an industrial estate with 6 units all large enough to house significant amounts of freight and storage which would need to be serviced by a significant number of vans, trucks and lorries is simply unsustainable along a single narrow lane which in many places is simply not wide enough for lorries to pass, we will have road users reversing around blind corners which is going to be extremely dangerous to walkers, young families, horse riders and cyclists who all use the narrow lane on a daily basis. Further we have a wide variety of wildlife which will be significantly affected and displaced by the light and noise pollution from a 24/7/365 industrial estate.
- Our main concern is families walking with their children and dogs. There are also children on bikes and ponies using the lane. We keep the verges mown and tidy with no passing

places and sharp blind bends, making it extremely dangerous. To add even more traffic to our already congested lane could prove fatal.

- Thurvaston Lane is completely unsuitable for the amount of traffic that it is dealing with due to new properties having been built recently and also a vast amount of cars and vans using it as a cut through to Long Lane.
- My primary concern revolves around the potential impact on road safety resulting from the proposed development. After careful examination of the plans, it has become evident that the current proposal lacks the necessary measures to address the following critical issues:
  - Increased Traffic Congestion and Insufficient Infrastructure Upgrades: The proposed development is likely to attract a significant influx of traffic on the small country road, with limited passing places and high hedges it will increase the risk of accidents and collisions due to the inadequate road capacity.
  - Pedestrian, Cyclist and Horse Riders Safety: The safety of pedestrians, cyclists and horse riders in the vicinity of the proposed development has not been adequately addressed. With the projected rise in vehicular traffic, there is an urgent need for enhanced measures to safeguard vulnerable road users.
- Our main concern as a neighbour of RPC, would be the added traffic to our already busy narrow country lane and the surrounding lanes. Many parts of Thurvaston Lane are not wide enough for tow cars to pass and in one particularly narrow stretch of lane, with two blind corners, there is not space for a dog walker to meet a car. So the considerable additional vehicles created by the proposal would make it extremely dangerous.
- Roads in the Thurvaston Lane area are too narrow for heavy traffic other than existing farm vehicles.
- There are inadequate passing places on these narrow roads, risking (perhaps serious) damage to vehicles of any size.
- The roads are very winding with blind bends and do not allow good visibility for oncoming vehicle users, especially car drivers, or pedestrians.
- Some road surfaces in the area have major potholes that need to be upgraded for heavy goods vehicles. These would incur considerable expense and maintenance and may cause serious drainage problems, particularly on farmland.
- Road access to Thurvaston via Long Lane itself is unsuitable for HGVs.
- There are no suitable pavements for pedestrians, thus risking serious accidents.
- There will be more and more traffic going down a single lane with no passing places whatsoever. We regularly ride horses down the road and we have had so many near misses already with out the additional traffic. I expect these will also be bigger vehicles such as vans that will be on our lane as well.
- The business operating from the site when it became first known did not cause any problems at the time, as traffic was light the vehicles were smaller and lighter and the road was much better maintained than it is now. Times have changed the road is neglected with only the barest minimum of maintenance. The traffic has multiplied and the vehicles are much bigger, and heavier, sometimes making our house vibrate, some

of the agricultural ones are so big they will not fit on the tarmac. The lane is quite dangerous and unsuitable for this type of development.

- It can very difficult and dangerous to use the lane, and since I have lived here there have been several accidents, including a collision with the school bus just outside the entrance to my property, and just 20 yards from the entrance to RPC.
- The applicant informed me that they may start to use their operator's licence. I would have no concerns about this, as by their very nature the HGV's would only be able to navigate the lane at slow speed as they do now.
- I would not support the application unless any of the following possible scenarios could occur:
  - 1). 'Storage & distribution' was removed from the application.
  - 2). The speed limit on the lane between RPC and Longford Lane was reduced to 20 mph AND enforced.
  - 3). The section of the lane between RPC and Longford Lane was restricted to residential access only (including essential services etc.) and all traffic to and from the new units at RPC would be required to use the lane from it's junction with Cropper Lane which is wider and has more suitable passing places and verges for pedestrians and horse riders to move off the road.
- The traffic movements in the Transport Statement are exaggerated. Only three licenced drivers operate from the site currently.
- To operate at the level indicated with regard to the available licences the applicant would need to find and secure the employment of 7 more experienced and licensed drivers, and then they would have to generate the business to keep all 10 units running every day, day after day. I have been told that the transport and haulage business at present is very, very hit and miss due to the problems with sourcing experienced drivers, the cost of fuel, other running costs such as insurance, which have also risen, and the competition.
- What concerns me about these units, is there sheer size and storage capacity for 1 business per unit. My fear is that another operator, with an operator's licence elsewhere may rent these large units for storage and distribution due to the obvious easy links to the A38, A50, A52, and M1. Then we could possibly have multiple movements from another(s) operators to and from the site throughout the day to drop-off/collect goods ready for redistribution. This may well be combined with the noise involved in this loading/unloading from forklift trucks etc.
- I have read with horror the transport statement for the above planning application and am amazed at the assumptions that appear to have been made within it, I see no resemblance in this document to the number of movements that happen on a daily / weekly basis along this narrow and in most cases single track road based on my 7 years living here. I have never seem the number of vehicle movements alleged in this report and feel strongly the applicant is using a loop to force through a planning application based on what the "might / could do" rather than what they do.
- No reference in the document has been given to "Warehousing & Distribution" if you're distributing that means vehicles coming and going throughout the day to pick up and drop off, if each units was leased to a haulage company we could easily end up with 6 new haulage companies all operating fleets of vehicles, so how can anyone possible guess



how many 100's of additional movements units this large will bring to this narrow single track lane ?

- I know of several accidents on our lane including one being a car ( the driver still lives on the lane and can confirm this accident happened ) and the school bus with children on board which appears to be absent from the statement along with any mentions of all the other concerns which stopped the planning application last time such as the narrow with no overtaking places, blind bends and the whole lane clearly being unsuitable for significantly more traffic.
- I notice that the Transport Assessment makes no reference to the lack of overtaking spaces, much of the lane is single track, so I would like to understand how vehicles that come face to face with each other are going to pass without going on the grass verges and public walking areas?
- Thurvaston Lane is a single track road with very few places to pass, those that do exist are mainly residents driveways and gateways to fields. In situations when you do need to pass this can involve reversing a considerable distance.
- The road is not only narrow but windy, especially near to the proposed planning area. Visibility is poor and I myself have had an accident on this lane with one of the neighbours, both of us obviously knowing the lane and still it could not be avoided.
- The lane has no pavements and is already relatively dangerous for anyone using it - children, runners, dog walkers, equestrians and cyclists - granting this planning permission would surely lead to fatalities.
- The lane is used by large farm vehicles and I cannot see how vehicles will be able to pass one another, given in some areas there isn't even a verge.
- The lane is in poor condition and could not take the substantial increase in traffic.
- The lane is totally unsuitable for HGVs and large vehicles.
- Surrounding lanes, that will also have to be used, have similar issues.

#### Drainage and wastewater management

- We are still extremely concerned by the lack of sewage provision.

#### Residential Amenity

- The development would result in noise and light pollution which would harm the amenity and tranquillity of the local area and the residential amenity of nearby neighbouring properties contrary to policies S1, PD1, PD9 and EC1 and the National Planning Policy Framework.
- We strongly object to the proposed development creating additional noise and possible night time security lighting.

#### Ecology considerations

- Additional, (especially heavy goods) traffic on these narrow lanes may create serious disturbance to livestock, (for example, sheep at lambing time) and to wildlife.

- Creating passing places (for example by removing well-established hedgerow areas) would mean habitat removal and serious disturbance to existing wildlife.
- The verges are currently well kept and thriving with flowers and wildlife. I expect these will be driven on if these plans go ahead meaning a decline in wildlife.
- Granting planning permission would pose a real threat to wildlife for both animals and plants, with verges being churned up, and animal disturbance, not to mention the increase in pollution

#### Other

- Farmers and some village residents may have increased inconvenience when accessing their properties.
- Additional (heavy) traffic may cause structural damage to residential properties (for example by vibration), and even devalue property values.

### **7.0 OFFICER APPRAISAL:**

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for the purposes of the Act is the Adopted Derbyshire Dales Local Plan (2017). The National Planning Policy Framework (2023) is a material consideration in respect of this application.
- 7.2 Having regard to the applicants case, consultation responses and representations received and the relevant provisions of the development plan and guidance contained within the National Planning Policy Framework, the main issues to assess are:
- Planning policy context and sustainability of location;
  - Highway safety impacts;
  - Residential amenity considerations.
  - Impact on the setting of a Scheduled Monument;
  - Impact on the character and appearance of this part of the countryside, and;
  - Ecology and biodiversity net gain considerations.
- 7.3 Although some concern has been raised with regard to the lack of sewage provision, the application is supported by a drainage strategy which does demonstrate that additional surface water run off can be mitigated by a SuDS scheme located to the south east of the site. Therefore the application does demonstrate compliance with policy PD8. If planning permission were to be granted a condition would be required to ensure that full details of the SuDS scheme were agreed before any new impermeable surfaces are created and then implemented prior to occupation. Although the method of foul sewage disposal from the toilet block is unknown, this will need to meet Building Regulations Approved Document H. It is unclear as to whether there is an opportunity to connect to a mains sewer, which is the preference with regard to foul drainage, however, there is sufficient space on site and opportunity to install a package treatment plant which would ensure that there would be no pollution of the local environment. It is recommended that a condition is imposed to deliver the toilet block prior to first use of the commercial units, to ensure the delivery of appropriate amenities. Reference to loss of property value in the representations received is not a material planning consideration.

### *Planning policy context and sustainability of location*

- 7.4 Policies contained within the Development Plan, namely the Adopted Derbyshire Dales Local Plan (2017) which deal with development in the countryside and new and existing employment development are considered to align with national planning policy.
- 7.5 The site is previously developed land located in the countryside. Policies S1 and EC1 are relevant and together allow redevelopment for employment use in sustainable locations provided it does not have an adverse impact on the character and appearance of the area.
- 7.6 The representations received point to the development being contrary to parts a) and r) of Policy S4, which deals with development in the countryside. Part a) states that planning permission will be granted for development where it comprises the redevelopment of a previously developed site and/or conversion or extension of existing buildings for employment use provided it is appropriate to its location and does not have an adverse impact on the character and appearance of the rural area. Whether development is appropriate to its location is a matter of judgement. The application has submitted a transport assessment and presented a mechanism to limit operations from the site to alleviate concerns about the existing business intensifying alongside the proposed new business units to prevent any detrimental impacts on highway safety or the character and appearance of the rural area.
- 7.7 The applicant has pointed to other developments, where businesses have diversified and grown in countryside locations. Policy EC1 of the Local Plan which states that 'the District Council will support proposals that encourage small-scale and start-up businesses, including through the provision of innovation centres and managed workspace and small, modern industrial units' and encourages the redevelopment, intensification and more efficient use of existing employment sites.
- 7.8 The site currently contains the headquarters and workshop for RPC Commercial Vehicles, specialists in used commercial vehicle, plant, machinery and sales. It has a long established use as a vehicle dismantling and repair business. The current use can operate without restriction and has the potential to generate a certain level of activity and employment, based on site area. The redevelopment of part of the site and erection of a series of smaller commercial units would make more efficient use of the site, which is not currently used to its full potential, and deliver modern industrial units. Although the location of the site is an unsustainable one in terms of access to public transport, the existing use and level of employment that could be generated is a material consideration. The reduction in the existing business operational area and the proposal to relinquish the operators' licences would not, it is considered, result in any unacceptable intensification in use, brought about by the commercial units in sustainability terms. Local and national policy is supportive of the sustainable growth of all types of business in rural areas and the efficient use of land for such purposes that does not have an adverse impact on the character and appearance of the area or cause severe impacts on the transport network.

### Highway safety impacts

- 7.9 Part r) of Policy S4 requires that development will have a safe access and will not generate traffic of a type or amount which cumulatively would cause severe impacts on the transport network, or require improvements or alterations to rural roads which could be detrimental to their character. Policy HC19 advises that the District Council will seek to ensure that development can be safely accessed in a sustainable manner. It requires that all new development is located where the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development.

- 7.10 The applicant has submitted a Transport Assessment, which considers the reduction in the operator's licences associated with the existing site and the reduction in the size of the area of the existing vehicle repair and vehicle sales space to accommodate six industrial units.
- 7.11 An assessment of the Trip Rate Information Computer System (TRICS) indicates that there will be a reduction in vehicle trips on the surrounding highway network, when including the operator's licence, with the vehicle trips associated with the proposed development having less HGV movements. This is based on comparable haulage companies. Whilst any haulage would need to be associated with the lawful use of the site as a vehicle dismantling and repair business, the number of licences is such that the existing use could operate at increased scale, notwithstanding any difficulties recruiting experienced drivers as indicated in the representations received.
- 7.12 The TRICS data also considers weekday 12-hour operation. To ensure no disturbance to residents associated with any 24-hour storage and distribution use, the Councils Environmental Health Team have advised that operation hours, including deliveries are restricted to the hours of 08:00 and 18:00 Monday to Friday, which will reduce traffic (including haulage) further. The restrictions in the number of operators licences would apply to the site and future occupants of the commercial units. Any storage and distribution use would therefore be limited in terms of the number of HGVs that could operate from the site.
- 7.13 The Local Highway Authority recognise that vehicle trips associated with the proposed use are likely to be small vans and transit vans and the occasional delivery and other servicing movements and that although there is a net increase in peak hour movements, resulting in an overall minor increase in daily trips of lighter commercial traffic. Subject to the completion of a unilateral agreement to relinquish the operator's licences as set out in the application documents and a condition to secure appropriate parking, the Local Highway Authority have raised no objections.
- 7.14 Taking into consideration the advice of the Local Highway Authority and the supporting information submitted with this application it is not considered that the development would cause severe impacts on the transport network, require improvements or alterations to rural roads which could be detrimental to their character or materially increase the amount of traffic to and from the site to the extent that it could not be accommodated by the existing highway network. The development would also be served by an appropriate level of off street parking. The development would therefore comply with development plan policies S4, HC19 and HC21.

#### Residential amenity considerations

- 7.15 Policy PD1 of the Adopted Derbyshire Dales Local Plan requires that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity. Policy PD9 states that the District Council will protect people and the environment from unsafe, unhealthy and polluted environments whilst promoting the use of appropriately located brownfield land. This will be achieved by only permitting developments if the potential adverse effects (individually and cumulatively) are mitigated to an acceptable level by other environmental controls or by measures included in the proposals. This includes noise and light intrusion.
- 7.16 Some concern has been raised about the potential impact on the amenity of neighbouring properties from the development. There are a number of neighbouring residential properties around the site. The siting of the building relating to neighbouring properties and its scale is such that it would not result in unacceptable overbearing or overshadowing effects. The applicant has omitted the general industrial use element of the original proposal and now proposes commercial uses that are either compatible with residential areas or that subject

to controls on operating hours, which can be conditioned, would not result in a loss of residential amenity. Given that the site is in a tranquil rural location, it will be necessary to control any external / flood lights to prevent unacceptable light intrusion in the countryside that could also be detrimental to residential amenity. This was recommended by the Environmental Health Team in the consideration of the previous application. The legal agreement dated 1st February 1983, which tied the approved dwelling to the land prevents this dwelling being sold, assigned, sub let except as one parcel of with the said land. This will allow effective control of the units, which are to be leased by the site owner whilst assisting with the ongoing viability of the business. With conditions the development would, it is considered, satisfy the provisions of Policy PD1 and PD9.

#### Impact on the setting of an adjacent Scheduled Monument

- 7.17 The site is located adjacent to the remains, holloways, building platforms and fossilised field systems of a deserted medieval village. This is a designated Scheduled Monument (NHLE 1017362). Policy PD2 is therefore relevant and requires that development proposals contribute positively to the historic environment. Particular protection is given to designated heritage assets, included Scheduled Monuments and archaeological sites. Planning applications are required to be supported by a heritage statement and archaeological assessment.
- 7.18 The application is accompanied by a comprehensive Archaeology Desk Based Assessment which considers the impact of the development on this Scheduled Monument. The Assessment recognises that the yard is adjacent to the Scheduled Monument of Lower Thurvaston medieval settlement including part of the open field system. It states that the core of the settlement is to the west and it is not certain that it extended further along Thurvaston Lane. This gives moderate to high potential for medieval remains. It is recognised that any remains associated with the settlement could be of national significance as they would contribute towards knowledge of the extent of the asset, although they have been affected by later use of the site and no standing remains survive. The fact that the site has been a commercial yard for many years is a material consideration in this respect.
- 7.19 The Assessment states that construction of the units and excavation for the drainage system would mainly affect agricultural remains to the rear of any enclosures or in the wider surroundings of the settlement. Any such remains would be of local significance. It is identified that there is high potential for agricultural and horticultural remains from the post-medieval period and 19th century which would be of negligible significance. Existing development and storage on site is such that the proposed building would not be harmful to the Scheduled Monument.
- 7.20 The Development Control Archaeologist has advised that a programme of archaeological evaluation trenching and reporting any necessary archaeological mitigation works which may range from open area archaeological excavation and recording to scalable archaeological monitoring depending on the results of the evaluation trenching be carried out and that this can be a condition of any permission to ensure the appropriate recording of any below ground archaeology. This will ensure that any remains are retained and recorded in manner that meets the requirements of Policy PD2 of the development plan and national policy.

#### Impact on the character and appearance of this part of the countryside

- 7.21 Policy PD1 of the Adopted Derbyshire Dales Local Plan requires that all developments should respond positively to both the environment and the challenge of climate change, whilst also contributing to local distinctiveness and sense of place. To achieve this objective development should be of high-quality design that respects the character, identity and context of the Derbyshire Dales townscapes and landscapes and contribute positively to an

area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features amongst other requirements.

- 7.22 The existing site is visually relatively well screened and therefore in principle there is no objection to the design approach, which in the context of the site and its surroundings would appear as a series of portal framed buildings, not dissimilar to a modern farm building grouping.
- 7.23 Policies PD5 and PD6 of the development plan require development to conserve and enhance landscape character and trees. This site is previously developed land, however there are a large number of mature trees and hedgerows around and near to the site. The submitted arboriculture impact assessment states that trees would need to be removed to facilitate the development: one mature and one semi-mature Ash. The Council's Trees and Landscape Officer has indicated that their loss would not be unacceptable. All other trees are to be retained, which will effectively filter views of the development from the wider landscape. A condition to secure replacement tree planting, and other soft landscaping will ensure that there is no net loss of landscape features. It will also be necessary to secure site specific tree protection measures to protect existing trees close to the proposed development. A condition to secure measures to help mitigate the effects of and adapt to climate change is also recommended to address the requirements of Policy PD7.

#### Ecology and biodiversity net gain considerations

- 7.24 Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) states that the District Council will seek to protect, manage, and where possible enhance the biodiversity and geological resources of the Plan Area and its surroundings by ensuring that development proposals will not result in harm to biodiversity. This aligns with national policy which seeks to secure measurable net gains for biodiversity.
- 7.25 No protected species report or surveys have been submitted with the application. The application does not explain or provide evidence to demonstrate that ecological assessments are not required.
- 7.26 The proposed development would result in the removal of mature trees and introduce a development which has the potential to generate noise and light pollution which could have a material impact on protected species in the local area, particularly bats and birds.
- 7.27 The applicant points to Derbyshire Wildlife Trust not responding to the earlier application before it was refused, with other reasons, on ecological grounds. Derbyshire Wildlife Trust have reiterated that it is unlikely that the proposal will impact any protected species or result in a measurable biodiversity loss given its current condition. A Biodiversity Enhancement and Management Plan (BEMP) is recommended to deliver measurable net gains for biodiversity.
- 7.28 The applicant has indicated that plans for biodiversity enhancement could be achieved adjacent to the attenuation pond in a Biodiversity Enhancement and Management Plan (BEMP), as requested by DWT. This could include native planting of aquatic and semi-aquatic plants in the bottom of the pool along with marshy grassland seeds or plugs and an appropriate seed mix on the lower banks and a lowland wildflower (of local Derbyshire provenance if possible) seed mix on the upper banks and in the area around the pool. Management of the pool and surrounding grassland would be low intensity (e.g. one late cut (and remove) once per year at the end of the flowering season, once the grassland habitat has been established). It will be necessary to condition a BEMP to satisfy the requirements of policy PD3. With such a condition reason for refusal no.5 can no longer be sustained. The prior agreement of any exterior lighting can also minimise disturbance to wildlife. The

applicant will need to comply with the requirements of the Wildlife and Countryside Act, in terms of the protection afforded to birds and bats, with regard to felling any trees.

## Summary

- 7.29 The proposals, in their amended form and with a unilateral undertaking to relinquish 7 tractor unit and 14 trailer unit operator licences would not materially increase the number of HGV and other vehicle movements to and from the site based on TRICS data and the Local Highway Authority assessment, to the extent that a recommendation of refusal could be sustained on highway safety or sustainability grounds. The development would meet the District Council's employment aspirations to support small, modern industrial units' and the redevelopment and more efficient use of existing employment sites.
- 7.30 The omission of general industrial use, and with conditions to control hours of operation and deliveries to the site and any external lighting the development would not give rise to any unacceptable impacts on the residential amenity of the occupants of nearby residential properties. The applicant would retain a smaller part of the site for vehicle dismantling and repair for which a functional need to be resident in a nearby dwelling was demonstrated. The redevelopment of the site will help support the ongoing viability of the business.
- 7.31 With an archaeological written scheme of investigation and condition to secure a biodiversity and ecological management plan to secure net gains for biodiversity and enhanced conditions for wildlife, the previous archaeology and ecology related reasons for refusal can no longer be sustained.
- 7.32 Taking the above into consideration, the application in its revised form has satisfactorily addressed all of the previous reasons for refusal and, with conditions, would be in accordance with the relevant provision of the development plan. There are no material considerations that indicate otherwise and recommendation of approval is put forward on this basis.

## **8.0 RECOMMENDATION**

- 8.1 That the application be approved subject to conditions, following the completion of a unilateral undertaking to relinquish 7 tractor unit and 14 trailer unit operator licences and which covenants the landowner(s) not to obtain any additional licences in the future, and subject to the following conditions:

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

Reason:

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

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans to which this decision notice relates, namely:

- Site Location Plan ref. 3167 001A
- Site plan (as proposed) ref. 3167 003C
- Plans and Elevations Drawing ref. 3167 004A
- RPC Commercials heritage Note – June 2023
- Arboricultural Impact Assessment Survey & Report Ref: BG21.275.1 REV1 - April 2022

- Drainage Strategy Version 1.1 February 2022
- Planning, Design and Access Statement by Planning Design referenced 3167\_PDAS\_V5
- Archaeological Desk-based Report Ref. YA/2023/269

Reason:

For the avoidance of doubt and to establish the scope of the permission granted.

3. No part of the development shall be occupied or brought into use until the areas indicated on the submitted plans to be set aside for parking have been permanently marked out or demarcated in accordance with the details as shown in drawing ref: 3167-003C. The parking areas shall be retained as such thereafter.

Reason:

To ensure that adequate provision is made on the site for the traffic generated by the development to comply with the requirements of Policies HC19 and HC21 of the Adopted Derbyshire Dales Local Plan (2017).

4. a) 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

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) 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 (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

To safeguard the identification and recording of features of historic and/or archaeological interest associated with the site in accordance with the aims of Policy PD2 of the Adopted Derbyshire Dales Local Plan (2017).

5. A Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the BEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats and shall include the following:-



- a) Details of type and location of biodiversity enhancements
- b) Aims and objectives of management.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the enhancement measures.
- h) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

Reason:

To deliver net gains for biodiversity in accordance with the requirement of Policy PD2 of the Adopted Derbyshire Dales Local Plan (2017) and policy contained within the National Planning Policy Framework (2023).

6. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored on the site without the prior approval in writing of the Local Planning Authority.

Reason:

In the interests of the appearance of the site and the amenities of the area and highway safety in accordance with the aims of Policies S4, PD1 and HC19 of the Adopted Derbyshire Dales Local Plan (2017).

7. The development hereby permitted does not extend to the erection of any security / floodlights without first obtaining the prior written approval of the Local Planning Authority on an application submitted to it.

Reason:

In the interests of visual amenity in accordance with the aims of Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

8. A scheme for the provision of foul and surface water drainage which, in the case of the land drainage scheme, shall follow the parameters of the Drainage Strategy Version 1.1 dated February 2022 and include a timetable for the completion of the works shall be submitted to and approved in writing by the Local Planning Authority before any building operations commence. The drainage works shall be completed in accordance with the approved scheme.

Reason:

To prevent flooding and pollution of the water environment in accordance with the aims of Policy PD8 of the Adopted Derbyshire Dales Local Plan (2017).

9. No machinery shall be operated on the premises, no process or operations shall be carried out and no deliveries shall be taken at or despatched from the site except between 08:00 to 18:00 hours Mondays to Friday, 08:00 to 13:00 on Saturdays or at any time on Sundays and Bank Holidays.

Reason:

To preserve the amenities of the surrounding area in accordance with Policies PD1 and PD9 of the Adopted Derbyshire Dales Local Plan (2017).

10. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987 as amended, (or any Order revoking or re-enacting that Order with or without modifications), the premises hereby approved shall be used for E(g)(ii) and B8 and only and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason:

For the avoidance of doubt, to protect the residential amenity of the occupants of nearby dwellings and in the interests of highway safety in accordance with the aims of Policies S4, PD1 and HC19 of the Adopted Derbyshire Dales Local Plan (2017).

11. Prior to first use of the commercial units hereby approved, the toilet block shall be provided and available for use and connected to an approved foul drainage system.

Reason:

To prevent pollution of the water environment and to ensure the delivery of appropriate amenity facilities in accordance with the aims of Policies PD1 and PD8 of the Adopted Derbyshire Dales Local Plan (2017).

12. Prior to works commencing on the superstructure of the building, details of the measures to mitigate the effects of and adapt to climate change shall be submitted to and approved in writing by the Local planning Authority. The measures shall thereafter be provided prior to first use of the units.

Reason:

To help minimise the impact of the development on global warming in accordance with the aims of Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017).

13. A scheme of hard and soft landscaping and protection of existing landscape features shall be submitted to and approved in writing by the Local Planning Authority prior to 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 and details of tree protection and construction methods;
- c) measures for the protection of retained vegetation during the course of development informed by a site specific arboricultural assessment;
- d) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection (including compensatory planting for any trees to be felled);
- e) grass seed mixes and sowing rates;
- f) finished building floor and site levels and contours;
- g) means of enclosure;
- h) car park layouts;
- i) other vehicle and pedestrian access and circulation areas;
- j) hard surfacing materials;

- k) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc), and;
- l) retained historic landscape features and proposed restoration, where relevant.

In respect of the hard and soft landscaping details submitted, a timetable for delivery shall also be provided. The development shall thereafter be carried out in strict accordance with the approved details. 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.

Reason:

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

### **NOTES TO APPLICANT:**

The Local Planning Authority prior to the submission and during the consideration of the application have engaged in a positive and proactive dialogue with the applicant which resulted in the submission of additional information and proposals to address a number of concerns relating to the sustainability of the development, highway safety and the impact of the development on the adjacent Scheduled Monument.

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 £43.00 per householder request and £145.00 per request in any other case. The fee must be paid when the request is made and cannot be required retrospectively.

A Public Right of Way runs close to the site – Footpath number 53. The route must always remain unobstructed on its legal alignment and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.

The pre-commencement conditions attached to this permission have been imposed having served the requisite notice on the applicant(s) and having received a positive response (deemed or otherwise) under section 100ZA(5) of the Town and Country Planning Act 1990.

The applicant's attention is drawn to the Lead Local Flood Authority's informatives regarding land drainage as set out in their consultation responses dated 9<sup>th</sup> August 2023.

This Decision Notice relates to the following documents:

- Site Location Plan ref. 3167 001A
- Site plan (as proposed) ref. 3167 003C
- Plans and Elevations Drawing ref. 3167 004A
- RPC Commercials heritage Note – June 2023

- Arboricultural Impact Assessment Survey & Report Ref: BG21.275.1 REV1 - April 2022
- Drainage Strategy Version 1.1 February 2022
- Planning, Design and Access Statement by Planning Design referenced 3167\_PDAS\_V5
- Archaeological Desk-based Report Ref. YA/2023/269



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<b>APPLICATION NUMBER</b>		23/01094/OUT	
<b>SITE ADDRESS:</b>		Holmlea, Derby Road, Ashbourne, DE6 1LZ	
<b>DESCRIPTION OF DEVELOPMENT</b>		Outline planning application for the demolition of existing dwelling and associated buildings and construction of a 74no. bedroom care home (Use Class C2) with approval sought for all matters except landscaping	
<b>CASE OFFICER</b>	Sarah Arbon	<b>APPLICANT</b>	Caroline Richardson-Aspbury Planning Ltd
<b>PARISH/TOWN</b>	Ashbourne	<b>AGENT</b>	
<b>WARD MEMBER(S)</b>	Cllr Archer Cllr Wilton Cllr Bates	<b>DETERMINATION TARGET</b>	18 <sup>th</sup> January 2024 EOT agreed 23 <sup>rd</sup> February
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	Major application	<b>REASON FOR SITE VISIT (IF APPLICABLE)</b>	For Members to appreciate the site and context.

<b>MATERIAL PLANNING ISSUES</b>
<ul style="list-style-type: none"> <li>• Principle of development, having regard to its location;</li> <li>• Impact on residential amenity;</li> <li>• Noise and odour issues associated with Ashbourne Industrial Estate</li> <li>• District Care Home Needs</li> <li>• Highway safety</li> <li>• Appearance, layout and scale, and</li> <li>• Trees and Ecological impacts.</li> </ul>

<b>RECOMMENDATION</b>
That the Application be Refused

## **1.0 THE SITE AND SURROUNDINGS**

1.1 This 0.65 Ha site is located to the north east of the A52 Derby Road roundabout at the south east of Ashbourne and Ashbourne Business Park bounds the north eastern boundary. It is a spacious plot with one detached dwelling adjacent to the road boundary with intervening tree screening between the site's boundary and the roundabout. The dwelling is accessed off Derby Road in the north western part of the site. Two metre high hedging encloses the site from both Derby Road and the A52 roundabout and mature trees are set within the plot. The character of the area is semi-rural. Ashbourne Industrial Estate adjoins the boundary of the site to the north east with the large B2 (general industrial) buildings for firms such as Trouw Nutrition and Nenplas sharing a boundary with the site. The detached dwelling 'Rushclose' adjoins the south western boundary of the site.

## **2.0 DETAILS OF THE APPLICATION**

2.1 Outline permission is sought with access, appearance, layout and scale to be agreed and landscaping a reserved matter. The proposal involves demolition of the existing property and the erection of a two and a half storey 74 bed care home building. Access would be adjacent to the south eastern boundary and parking for 27 vehicles is proposed with 3 disabled bays, one ambulance bay and 1 EV charging bay together with cycle parking. The main part of the building would be along the south western frontage with a section extending to the rear set back from the south eastern boundary with the neighbouring property 'Rushclose'. The car parking area would be enclosed behind this rear section in the north western part of the site linked to the access.

2.2 The building comprises large rectangular blocks with the elevation adjacent to the roundabout on Derby Road measuring 69 m in length and 17m in width of a height of 5.9m to eaves and 10.8m to the ridge. The elevation includes a double gable feature and a single gable feature extending at difference heights to the ridge and eight box dormers within the roofslope. The north western elevation that would be viewed from the vehicular entrance would be elevation A which has a end gable which includes a further gable feature within it that extends slightly beyond the main gable by 2m. The rear section would extend 32m to the rear of a width of 16m of a height of 5.9m to the eaves and 10.8m to the ridge and this would include the main entrance as a single storey mono-pitched section between the gable features in the corner adjacent to the car park. The rear section would be 21m from the south eastern boundary and 23.9m from the side gable of the dwelling known as 'Rushclose'. Proposed external materials include red brick, white render, red hanging tile cladding with feature 45 degree band, lead effect dormers and slate grey roofing tiles. Features include a double cant brick plinth, brick cills and flat brick arched lintels.

2.3 The ground floor would comprise of 26 ensuite bedrooms, three resident lounges, kitchen, main entrance foyer, reception, assisted bath / shower room, assisted WC, hoist store, cleaning room, laundry room, drug store, admin office and staff WC and three escape staircases. The first floor would have identical accommodation and the second floor would comprise of 22 ensuite bedrooms, two resident lounges, kitchen and one dining room with all the same service and staff accommodation as the two other floors. The aspects of the resident lounges would be to the north east, north west and south west. This is a speculative scheme with no operator confirmed but it will be a 24 hour facility with staff working shifts.

2.4 The application is accompanied by the following reports:

- Planning Statement
- Character Statement
- Design & Access Statement
- Arboricultural Impact Assessment



- Ecological Impact Assessment and BNG Metric
- Indicative Landscape Plan
- Phase I Geo- Environmental Assessment
- Transport Statement & Access Visibility Plan
- Noise Impact Assessment
- Air Quality Assessment
- Odour Assessment
- Flood Risk Assessment and Drainage Strategy
- HPC Care Home Need Assessment (Healthcare Property Consultants Limited).

### 3.0 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  
 S8 Ashbourne Development Strategy  
 S10 Local Infrastructure Provision and Developer Contributions  
 PD1 Design and Place Making  
 PD3 Biodiversity  
 PD5 Landscape Character  
 PD6 Tree, Hedgerows and Woodlands  
 PD7 Climate Change  
 PD8 Flood Risk Management and Water Quality  
 PD9 Pollution Control and Unstable Land  
 HC1 Location of Housing Development  
 HC11 Housing Mix and Type  
 HC19 Accessibility and Transport  
 HC21 Car Parking Standards

#### 3.2. Ashbourne Neighbourhood Plan (2021):

HOU1 Housing Mix  
 DES1 Design  
 TRA1 Transport

#### 3.3. Other:

The National Planning Policy Framework (2021)  
 National Planning Practice Guide

### 4.0 RELEVANT PLANNING HISTORY:

09/00175/OUT	Demolition of existing dwelling and erection of 60 bed nursing home and 16 bed learning disabilities home (outline)	REF	16/07/2009
15/00733/FUL	Residential development of 14 dwellings and associated infrastructure	REF	02/12/2015
19/00311/HAZ	Blenheim House Blenheim Road Airfield Industrial Estate Ashbourne - Variation of Condition 1 of planning application 16/00858/HAZ to allow for an increase of some stored substances	PER	12.07.2019

## 5.0 CONSULTATION RESPONSES

### 5.1 Ashbourne Town Council

No Objection. Members raised concerns regarding the entrance being in close proximity to the roundabout on the A52; and that the entrance splay would need to be widened. Concerns were also raised regarding the Air Quality in the town and also the 'odour' from the Industrial Estate; however, Members feel there is a need locally for a care home.

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

The principle of the care home is acceptable and a Transport Statement has been submitted to support the application. It is considered that the details submitted are acceptable and the Travel Plan can be conditioned. The following conditions are recommended on any consent granted:- access, parking and turning, cycle parking, travel plan and construction management plan.

### 5.3 NHS Derby and Derbyshire Clinical Commissioning Group

A S106 contribution of £ £26,640.00 for the closest practices of Ashbourne Surgery and Ashbourne Medical Practice is required.

### 5.4 Environment Agency

There is no objection, however, they inform the LPA that there is permitted Installations site (Permit EP RTP3835PD) in proximity to the proposed development. The site is still in operation and is an abattoir as well as a processing plant (chickens are dispatched on site and then processed). This occurs in the buildings closest to the Derby Road. They have received odour complaints for this facility.

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

With reference to the above application, there are concerns as to the appropriateness of this parcel of land for this use. The land is adjacent to a busy road and an industrial estate and the potential for noise and odour is significant.

Whilst it is appreciated the development has submitted reports mitigating or dismissing the impact odour and noise, this in no means is entirely the case. It is unrealistic to cite that permits are in place at two of the industrial processes nearby, as these are just two of the many businesses in the area. In addition, whilst at present these sites operate processes requiring a permit, this has the possibility to change in the future if the nature of the industry changes. It, therefore, shouldn't be a material factor in the assessment of this site as a suitable one.

A visit was made to the site and the noise from the road is significant, such that a closed window system has been proposed for a significant proportion of the building. The appropriateness of this in a care setting is debatable. There were also odours present from the industrial estate that are also not compatible with this use.

For the above reason, there is a concern about introducing this use class onto this parcel of land. It is considered that there is still potential for nuisance from the industrial estate and inadequate provision of recreational space due to noise and odour, contrary to Policy PD9 and refusal of this application is recommended.

#### 5.6 Trees and Landscapes Officer (Derbyshire Dales District Council)

The submitted arboricultural report identifies several trees and hedgerows that would require removal to facilitate the proposals. None of these are currently subject to statutory protection by virtue of conservation area or TPO and they are not ancient woodland. Furthermore these trees and hedgerows are located toward the central parts of the site with those around the periphery being retained. Accordingly the proposals would not have a significant harmful impact on the amenity provided by the trees on and around the site.

It is important that retained trees receive appropriate protection throughout the development process. The submitted arboricultural report includes such details and it is recommended that a requirement to follow these in their entirety should be a condition to a grant of planning consent. The specification for the proposed temporary tree protection fencing and the warning signs to be attached to it has been supplied and this should also be subject to a condition to a grant of planning consent.

#### 5.7 Derbyshire Fire and Rescue

No response received.

#### 5.8 Force Designing Out Crime Officer

The principle of developing a care home at this location and the detail presented is not considered to be problematic from the perspective of crime and disorder, so there would be no objection from the police.

The the resident profile is not supplied only that there are 3 care levels. Taking stock of the layout and room size the likelihood is for relatively intensive care, and it is noted that there is no garden enclosure provision to, for example, prevent residents suffering from dementia wandering out of the gardens and off site. This is raised for consideration in the round, as there are immediate obvious dangers should this occur.

#### 5.9 Severn Trent Water

No response has been received.

#### 5.10 Derbyshire Wildlife Trust

They have reviewed the Ecological Impact Assessment (Whitcher Wildlife Ltd., September 2023) and advise that a sufficient level of survey work has been undertaken. A total of three nocturnal bat surveys were carried out, which did not record any roosting bats. However, a roost of a single common pipistrelle bat was recorded in the main house in 2019. The report states that no licence is required prior to demolition and they concur that Natural England is unlikely to grant a licence when no current survey evidence is available. However, given that a roost was recorded in 2019 it is advised that demolition works either avoid the peak summer activity season (May-August) or that a pre-works bat survey is undertaken as a precautionary measure.

The EclA states that a net gain of +0.01 habitat units (+0.36%) and +0.2 hedgerow units (+9.77%) will be achieved but trading rules are not satisfied. The onsite habitats will essentially be changing from garden and derelict / overgrown area to new landscaped

garden and it is likely that the new proposals will provide similar ecological value. Several trees were assessed to have low bat roost potential, however the report states that these will be retained and therefore no further work is necessary. They welcome the enhancement measures recommended in Section 5 and these can be secured via condition. The proposed landscaping on which the BNG metric is based should be secured through a compliance condition. Conditions relating to bats and breeding birds are also recommended.

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

No response received.

#### 5.12 Archaeologist (Derbyshire County Council)

The site has an entry on Derbyshire HER for the former guard house and fire party room associated with the WW2 Ashbourne Airfield (MDR15781 and MDR853). According to the HER entry however these buildings had been demolished by 2007 with only the concrete floors remaining at this point. The site therefore retains no archaeological interest.

#### 5.13 Cllr A Bates

Makes the request that this application is put to the DDDC planning committee. The entrance to this proposed development is very close to the very busy A52 roundabout where there has been significant residential development over the last few years which has created a substantial increase of traffic movement. The site is also very close to long established industrial businesses and he would have concern over the noise and smell impact on the potential residents.

#### 5.14 Derbyshire Swift Conservation Project

74 Swift bricks (1 brick per dwelling) should be secured by condition.

### **6.0 REPRESENTATIONS RECEIVED**

6.1 Two letters of objection have been received and are summarised below:-

- a) The roundabout adjacent to the proposed care home is already very congested with queues coming from Ashbourne's the existing industrial estate traffic and that of the newly built housing development without the care home traffic aswell.
- b) Care homes generally do not have enough car parking for vistiors meaning overspill street parking occurring.
- c) Cars and lorries often park on Derby Road to use the retail facilities as insufficient parking was provided.
- d) Cycle parking is welcomed but it is not realistic that staff would cycle, walk or run to work.
- e) if the application is granted can a condition be imposed whereby the existing access is restricted to maintenance of the substation only by barriers.
- f) The pressure on local medical services would be increased if residents are not already registered in local surgeries.
- g) before granting planning permission for another 74 dwellings not connected to the main sewage system, would it not be greener to get the investor to pay a significant proportion of the cost of installing mains sewage

- h) What is the local need for car home beds as this scheme appears excessive.
- i) Prior to this submission, there was two previous refused applications for a care home and dwellings on the same site, both refused on grounds of odour and noise and noise related mitigation creating detrimental impacts of the proposed developments.
- j) Both refused applications were deemed to subject their occupiers to detrimental odour emissions associated with established business upon the adjacent industrial estate.
- k) There is no reference to Nenplas Limited being an odour generating use or Nenplas being considered during the odour assessment taking place and as such the assessment is flawed.
- l) Since the refusal of the previous applications no material changes of uses have occurred at the adjacent industrial estate so the assessment or detrimental levels of odour and noise remain.
- m) The 'sniff test' conducted is flawed as it is not impartial and should only be used in a 'multi tool odour assessment' supported by technical modelling and/or compound analysis, as required by IAGM guidance.
- n) In the odour assessment the historical wind data was monitored from a meteorological station approximately 22.5km northwest of the site which does not account for local winds and the different topographies between the site and the location of the station.
- o) The timings of the odour surveys are insufficient as it was limited to between 9:30am and 3:40am where background levels are likely to be lower and taking into account the care home would be a 24-hour facility.
- p) The odour assessment failed to assess odour when wind was coming from the odour generating uses.
- q) The previously refused application for 14 dwellings included a 4.5m acoustic barrier, this application includes a 2.1m barrier which would be less effective.
- r) The Noise assessment includes an assessed level of 66dB and 57dB for daytime and night-time volume levels time respectively being recorded, both exceeding the maximum standard of 60dB and 55dB of daytime and nighttime levels, meaning that certain facades would require the windows to not open which has clear implications for the amenity of future occupiers.
- s) Leaving the overheating assessment to be dealt with by condition is insufficient as it should be carried out prior to any decision as it has implications for the amenity of future residents.
- t) The building would be highly prominent on Derby Road and due to the scale of the building existing screening would be insufficient and landscaping left to a further reserved matter.

## **7.0 OFFICER APPRAISAL**

7.1 Having regard to the policies contained within the Adopted Derbyshire Dales Local Plan, Ashbourne Neighbourhood Plan (2021) and the National Planning Policy Framework, the main issues to assess are:

- Principle of development, having regard to its location;
- Impact on residential amenity;

- Impact of noise and odour associated Ashbourne Industrial Estate
- District Care Home Needs
- Highway safety
- Appearance, layout and scale, and
- Trees and Ecological Impacts.

***Principle of the development, having regard to its location***

- 7.2 The site is located within the settlement development boundary of Ashbourne. Policy S2 of the Adopted Derbyshire Dales Local Plan (2017) states proposals for new development will be directed towards the most sustainable locations and the use of previously developed land will be encouraged. Ashbourne is identified as being a first tier settlement, a location of primary focus for growth and development that will continue to provide significant levels of jobs and homes, together with supporting community facilities and infrastructure to meet their economic potential in the most sustainable way, consistent with maintaining or enhancing key environmental attributes.
- 7.3 Policy S3 states that within settlement boundaries proposed development should be 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, any buildings that make a positive contribution to the character of the area should be retained and access should be safe with the traffic generated able to be accommodated by the existing highway network with layout, access and parking provision appropriate for the use, site and surroundings.
- 7.4 Planning permission was refused for a 60-bed nursing home in 2009 (09/00175/OUT) and development for 14 dwellings was refused in 2015 (15/00733/FUL). Refusal reasons in the 2009 proposal related to future occupants being subject to detrimental odour emissions from the adjoining industrial estate, impact on the residential amenity of the adjacent dwelling and overdevelopment of the site. The 2015 application was refused also on impact of odour emissions and because the residential use would lead to pressure on the viability of such business operations, over intensive development of the site, the impact of the acoustic barrier and impact on trees.
- 7.6 In general terms, given the location of the site within the defined settlement boundary of Ashbourne, the principle of residential accommodation in the form of a C2 use in this location, close to public transport, public amenities, shops and community facilities is considered to be acceptable, however consideration of compliance with other policies in the Local Plan are required especially Policy PD9.

***Impact on residential amenity***

- 7.7 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires that development achieves a satisfactory relationship to adjacent development so as not to cause unacceptable effects by reason of noise or other adverse impacts on local character and amenity.
- 7.8 The nearest residential property to the site is 'Rushclose' and it sits 36m back from the road frontage in a spacious plot. The proposed building would be 24m from the site gable of this property. The existing relationship is that there is a 6m conifer hedge enclosing the south eastern and north western boundaries of the site. In the case of the south eastern boundary the 6m hedge would be removed as there is intervening land between the two existing residential properties. This proposal includes a 2.1m acoustic fence on the boundary with heavy standard tree planting together with retention of existing trees. The proposed site plan indicates taking a 45 degree angle from the nearest window on the front elevation of 'Rushhome' would reach the new building at 30m and on this elevation only staircase and landing windows are proposed. Therefore, at this distance with the angle and over time the

introduction of tree planting this relationship is considered acceptable in terms of overlooking impacts. On the south eastern elevation of the building there would be three floors of accommodation with 11 bedroom windows and two residents lounges at a distance of 24m. However, the proposed elevation would be 24m from the side gable of the existing property with 2.1m screening, existing trees retained and with further tree screening over time. It is acknowledged that the proposed building is large in comparison, however, taking into account the distances, windows, angle from the existing dwelling's windows and intervening screening this relationship is considered acceptable and is not considered to result in significant adverse impacts on the residential amenity of this existing property and in accordance with Policy PD1.

### **Noise and odour**

7.9 Policy PD9 seeks to protect people and the environment from unsafe, unhealthy and polluted environments whilst promoting the use of appropriately located brownfield land and achieving this by only permitting developments of the potential adverse effects (individually and cumulatively) are mitigated to an acceptable level by other environmental controls or by measures included in the proposals. Such adverse impacts in this case relate to air pollution (including odours or particulate emissions), pollution of watercourses, noise or vibration, light intrusion, land contamination, other nuisance, environmental pollution or harm to amenity, health or safety.

7.10 NPPF paragraphs 193 and 194 are particularly relevant:-

*193. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.*

*194. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.*

7.11 A major consideration for any application relates to any unacceptable problems in terms of its relationship with neighbouring land uses and evidence in terms of impacts of odour and noise in relation to the adjacent industrial estate. Therefore there is a need to demonstrate that there would be no future conflict between the existing and proposed uses. The commissioned surveys on noise and air quality have been reviewed by Environmental Health Officers aware of the industrial uses adjacent to the boundary.

### Odour

7.12 In terms of odour, the odour assessment identified that the site is located in the vicinity of a number of odour sources. These have the potential to produce odour emissions during normal operation which may lead to reduced amenity for future residents of the development. A two-stage Odour Assessment was therefore undertaken in order to determine baseline conditions at the site and consider its suitability for the proposed end-use. Four Field Odour Surveys were undertaken in order to assess odour impacts across the development site and these were concluded on the basis of Moy Park and Trouw

Nutrition to be negligible and slight. An Odour Risk Assessment was also undertaken using a standard screening methodology to consider the potential for reduced amenity. The results of these two methods were combined and a number of additional factors considered to determine the overall significance of odour impact. Based on the results of the staged assessment, the overall odour effects on the site are not considered to be significant. As such, it concluded that odour is not considered to represent a constraint to planning consent for the proposed development.

- 7.13 The report identifies that the main requirement with respect to odour control from industrial activities is the Environmental Permitting (England and Wales) Regulations (2016) and subsequent amendments. If a process is deemed potentially odorous then the relevant regulator will usually include an appropriate condition in the site's Environmental Permit to restrict impacts beyond the facility boundary. Enforcement of the condition is by the relevant regulator, either the EA for Part A(1) and waste processes, or the Local Authority for Part A(2) and B processes. The main requirement with respect to odour control from premises not controlled under the Environmental Permitting (England and Wales) Regulations (2016) and subsequent amendments, is that provided in Section 79 of Part III of the Environmental Protection Act (1990).

The Act defines nuisance as:

"Any dust, steam, odour or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance."

Enforcement of the Act, in regard to nuisance, is currently under the jurisdiction of the local Environmental Health Department, whose officers are deemed to provide an independent evaluation of nuisance.

- 7.14 Moy Park is a meat processing and production facility identified by the EA as a permitted site with complaints received relating to odour. Trouw Nutrition shares the northern boundary with the site and produces animal feed. Environmental Health Officer's consider the odour assessment flawed as permitted premises can change over time and NPPF paragraph 194 states that the focus should be on whether the introduction of a 74 bed care home where a closed window system is applied and the lack of recreation space for residents due to noise and odour constraints that exist is an acceptable use of land. This is a dense form of residential development where residents are generally restricted due to disability to their rooms and communal lounges for long periods and its location immediately adjacent to general industrial uses that are run on a 24 basis is not compatible and would restrict their already limited quality of life.
- 7.15 A further technical note dated the 18<sup>th</sup> January 2024 was received that seeks to refute the Environmental Health Officer's comments reiterating that the conclusion of their assessment was odour was not significant. However, it provides the IAQM guidance that states that:-

*"Loss of amenity or disamenity does not equate directly to nuisance and significant loss of amenity will often occur at directly lower levels of odour exposure than would constitute a statutory nuisance."*

Therefore, it is the professional opinion of the Environmental Health Officer that the impacts on the amenity of future residents would have an adverse impact on their residential amenity in terms of odour and seeking to reply wholly on permitted sites is flawed.

*Noise*

- 7.16 The Noise Assessment submitted with the application with the objectives to: Identify, measure and assess the potential impact of any existing noise sources in the immediate



vicinity of the Site upon proposed residential receptors. The report follows current and relevant British Standards in order to provide a robust assessment. The surveys undertaken attended road traffic and commercial sound measurements for Derby Road and the commercial units to the north respectively. The commercial measurements were conducted during daytime and night-time periods. A 24-hour background sound measurement has also been conducted in order to capture night-time fixed plant noise from the north. A 3D noise model has been constructed to assess road traffic and commercial sound impact in accordance with the criterion, for day and night, given in BS 8233:2014. Additionally, a BS 4142 assessment has been conducted for daytime periods for the external amenity areas. Consideration has been given to average noise levels, day and night, and maximum instantaneous noise levels at night. Proposed mitigation measures include the following:-

- Acoustic barriers of a height of 2.1m are required along the south, and eastern boundaries in the south east corner for road traffic sound and in the north east and north west corners for commercial sound.
- The assessment has determined that higher specification glazing is required for east, south and west facades closest to the road.
- The assessment also found non-compliance with the ADO requirements for noise levels in bedrooms, at night, with windows open. As such, a Part O overheating assessment is required for the affected rooms on the south eastern, south western and north western elevations of the frontage block.

The report concludes the assessment has shown that, with mitigation measures in place, no adverse impact is predicted day or night at the receptors due to road traffic and commercial sound.

7.17 The BS 8233:2014 recommends internal noise levels for living rooms at 35 (dB) and bedrooms at 30 (dB) and for external noise levels it is between 50-55 (dB) and states that development should be designed to achieve the lowest possible practicable levels in these external amenity areas. The Noise Survey predicted in the external 'relaxation' areas to range from 50-62 (dB) and as such acoustic barriers would be required as mitigation. It is opined that the proposal can only meet the recommended internal and external noise levels by 2.1m acoustic barriers on large parts of the site's boundaries with both the road and industrial estate, high specification glazing and a closed window system on certain facades. On this basis, the introduction of this dense residential development into this already constrained environment and its successful integration is considered compromised. The mitigation measures are considered to have an adverse impact on the residential amenity of future residents restricting their use of windows and tranquil outside space. The conclusion is drawn that the proposal is likely to conflict with the existing noise and odour sources and as such is not an acceptable use for the land, contrary to Policy PD9.

7.18 The agent states that the noise and odour impacts are not localised to / concentrated on this Application Site exclusively and in this respect didn't prevent the granting of Planning Permission for the new housing on the opposite side of Derby Road to the Application Site as well as the existing housing. The housing site referred to be the Cameron Homes site to the west which does not share a boundary with the industrial units and is separated from them by intervening development and the road and as such is not considered comparable. Furthermore, the Airfield Industrial Estate was mentioned by the agent, this site would extend the industrial estate to the north east and as it is all one allocation would involve assessment between the two uses of industrial and residential with appropriately designed buffers between and is therefore also not comparable.

7.19 It is clear within the guidance in Planning Practice Guidance on Noise that it is not simply the noise levels and mitigation, it is also the exposure levels and whether this results in a

change in behaviour which weighs heavily against allowing development where undesirable levels of exposure are to be caused. This guidance goes on to state that in circumstances where there is risk of conflict between new development and existing businesses “the applicant (or ‘agent of change’) will need to clearly identify the effects of existing businesses that may cause a nuisance (including noise, but also dust, odours, vibration and other sources of pollution) and the likelihood that they could have a significant adverse effect on new residents/users. In doing so, the agent of change will need to take into account not only the current activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made”. The submitted noise report does not include this assessment in terms of permitted changes to operations or uses and relies on the permitting regime for control which is not appropriate. At least three of the sites on the industrial estate are 24 hour operations which is not considered a appropriate site for a nursing home.

### ***District Care Home Needs***

- 7.20 Policy HC11 advises that schemes which provide registered care accommodation will be supported provided that the type of provision meets identified District needs. It is acknowledged that in regard to residential care bedspaces, there is a recognised need for 500 bedspaces to be provided in Residential Care Homes (Within Use Class C2) over the plan period to 2033.
- 7.21 With regard to the provision of a care home (Use Class C2) Policy HC11 of the Adopted Derbyshire Dales Local Plan (2017) advises that schemes which provide registered care accommodation (Use Class C2) will be supported provided that the type of provision meets identified District needs. The Housing Needs Survey undertaken by Icenl on behalf of the District Council dated September 2021 identified a higher than national average percentage of aged 65 and over in 2019 in the area at 27% where nationally it was 18%. Table 7.8 of this report indicates a need of 522 bedspaces for residential and nursing care within the District.
- 7.22 A HPC Care Home Assessment was submitted with the application which identifies supply and demand within the District and the implications of Covid 19 on this sector of accommodation. It states that “the District is currently served by 17 registered care homes for the elderly – offering a mix of residential and nursing care (including care to clients with dementia) – and extending to 416 ensuite bedrooms”. It states that there is a current outstanding need of 341 bedspaces rising to 373 in 2025. Existing homes total 11 residential care homes and 6 nursing care homes with a total of 651 registered beds and a further consented 164 bedspaces. The assessment states that 159 registered beds have been lost and 112 registered beds provided by new developments. Due to the implications of the pandemic ensuite single rooms are required for future viral control rather than shared rooms and communal bathing facilities. Within Ashbourne there are 3 existing care homes with a total of 135 registered beds with 91 ensuite bedrooms. The report considers there is an outstanding need of 83 ensuite bedrooms rising to 91 in 2025. Both the Council’s Housing Need Survey and the specific Care Home Assessment undertaken on behalf of the applicant identifies a local need for bedspaces for residential and nursing care within the District. It is therefore concluded that the 74 ensuite bedspaces proposed meet the identified needs of the District in accordance with Policy HC11.

### ***Highway safety***

- 7.23 The Local Highway Authority considers the proposed access to be acceptable. The scale of parking (including cycle parking) proposed is considered appropriate for the number of bedrooms proposed and space has been provided to enable service and delivery vehicles to turn.

7.24 The Local Highway Authority conclude that no objections are raised against the application, subject to conditions.

### ***Trees and Ecological Impacts.***

7.25 The application is accompanied by Arboricultural Impact Assessment, Ecological Impact Assessment and BNG Metric. The AIA states that to implement the current site layout would require the removal of two hedges, both category B in the centre of the site and a small section of a third hedge, also category B. Six trees, two category B and four Category C and an area of scrub, category U. The majority of trees and hedges on the boundaries of the site would be retained with their RPA's protected and suitable protective fencing erected during the construction phase. The majority of the screening that exists on the south western boundary with Derby Road would be retained with trees of height between 11m to 16m high. The impacts on retained trees is considered acceptable and their protection during construction secured.

7.26 Derbyshire Wildlife Trust are satisfied with the Ecological survey work undertaken and adequate Biodiversity Net Gain and enhancement measures can be secured through conditions.

### ***Design***

7.27 In respect of design, Policy PD1 requires all development to be of a high-quality design that respects the character, identity and context of the Derbyshire Dales landscapes. Development should contribute positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features. Policy DES1 of the Ashbourne Neighbourhood Plan (2021) advises that planning permission will be granted for new developments where they incorporate high quality sustainable design and are proportionately to the scale and nature of the development.

7.28 The site is on a prominent corner on a main route whereby the existing dwelling is set back from the boundary and of a two storey scale. Furthermore, it sits within a spacious plot and the industrial estate beyond is not visible due to the existing conifer screening on its north west and north eastern boundaries. The character of the area is considered semi-rural with gaps between developments. The proposal would introduce a building that would extend 69m along this prominent boundary at a ridge height of 10.8m. The bulk and mass of the building taking up all of the site's frontage is considered excessive and of a scale out of character with the two storey properties set back 30m from the road to the south east and new housing development to the west screened by existing trees from the roundabout.

7.29 It is acknowledged that to some degree the design has sought to break up the mass through the use of gable features, dormers and render, however, it is the excessive length and height in comparison to surrounding development that it would be viewed in context with that would make the building appear dominant and intrusive and of a intensive urban form not in keeping with the character or appearance of the area. The building also extends to the rear and when viewed in context with adjacent residential properties appears over intensive and an overdevelopment of the site. The screening has been taken into account; however, the scale of the building would mean its mass would be appreciated from this main route and would change the character of the area to a more dense and urban one. Therefore, the proposal is considered to introduce a dominant and intrusive form of development that is out of context with the area, contrary to Policies S3, PD1 and DES1 of the Ashbourne Neighbourhood Plan.

## **Other Matters**

- 7.30 In terms of drainage the Planning Statement states that the site is located within Flood Zone 1 and therefore at very low risk of flooding and suitable for development. The submitted FRA states that the site has very low risk from surface water flooding and in accordance with the National SuDS Standards, the strategy involves conveying surface water flows to a geo-cellular tank on-site, before combining with treated foul water and discharging via a rising main to the existing culverted watercourse within Derby Road, approximately 330m northwest of the site. In addition to the proposed geo-cellular tank, permeable paving will be provided on-site to ensure surface water flows are controlled at the source, before entering the drainage network. These features will provide extra storage on site, act as a first stage of treatment for any run-off and ensure adequate treatment is provided. The report concludes with the mitigation measures discussed in the report, the new development does not exacerbate flood risk in the wider area. Comments from the LLFA are awaited.
- 7.34 Policy S10 of the Adopted Derbyshire Dales Local Plan (2017) advises that the District Council will work with partners to ensure that infrastructure will be in place at the right time to meet the needs of the District and to support the development strategy. New development will only be permitted where the infrastructure necessary to serve it is either available, or where suitable arrangements are in place to provide it within an agreed timeframe. Arrangements for the provision, or improvement of infrastructure directly related to a planning application will be secured by planning obligation or, where appropriate, via conditions attached to a planning permission.
- 7.35 There would be a need to mitigate the impact of the development on health facilities and as such a contribution to local NHS GP Practices shall be secured in line with the requirement outlined in the NHS Derby and Derbyshire Clinical Commissioning Group response to consultation by way of a S106 agreement or unilateral undertaking.
- 7.36 Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017) advises that the District Council will promote a development strategy that seeks to mitigate global warming and requires new development to be designed to contribute to achieving national targets to reduce greenhouse gas emissions by reducing energy consumption and providing resilience to increased temperatures and promoting the use of sustainable design and construction techniques to secure energy efficiency through building design. The Design and Access Statement includes details of the following measures:-
- High levels of natural daylight to principal rooms
  - High levels of thermal insulation in excess of Building Regulations limiting fabric parameters
  - Weather-compensation and delayed start controls to the heating systems
  - LED and low energy lighting
  - Heating systems to be thermostatically controlled and zoned
  - High levels of airtightness

However, it states that more detailed analysis of the final measures would be determined by the end user and can be controlled by condition.

## **Conclusion**

- 7.37 The erection of a 74-bed residential care home in this location, adjacent to general industrial uses operating on a 24-hour basis would be severely compromised by an unacceptable level of noise and odour nuisance, with mitigation measures necessary that will adversely impact on the use of the facility and its enjoyment by future residents to the detriment of their residential amenity. Furthermore, the siting, scale and mass of the building on this prominent corner on a main route is also considered out of keeping. It is recommended that the

application be refused for these reasons.

## **8.0 RECOMMENDATION**

That the Application be refused for the following reasons:

1. The erection of a 74-bed residential care home in this location, adjacent to general industrial uses operating on a 24-hour basis would be severely compromised by an unacceptable level of noise and odour nuisance, with mitigation measures necessary that will adversely impact on the use of the facility and its enjoyment by future residents to the detriment of their residential amenity. This harm to amenity and susceptibility to noise and odour nuisance would have an adverse impact on the operation of the adjacent industrial businesses and be contrary to policies PD1, PD9 of the Adopted Derbyshire Dales Local Plan (2017) and paragraphs 193 and 194 of the National Planning Policy Framework (2023).
2. The proposed building by reason of its siting, scale and mass is considered to introduce a dominant and intrusive form of development that is out of character and scale with the area, appearing over intensive in relation to the semi-rural character of the area contrary to Policies S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017) and DES1 of the Ashbourne Neighbourhood Plan (2021).

## **9.0 NOTES TO APPLICANT:**

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

This decision relates solely to the application plans and documents:-

Site Plan 103V

Location Plan 523MUL-100

Plan No's 523MUL- 105A, 106, 107A, 109C, 110D

Character Statement ref: 523MUL-3.0 Rev (B) Abode Architecture);

Design & Access Statement ref: 523MUL-3.1 Rev (A) (Abode Architecture);

Arboricultural Impact Assessment ref: AIA/DRA/05/23 Rev A (Shields Arboricultural Consultancy);

Ecological Impact Assessment and BNG Metric ref 230554/EcIA:(Whitcher Wildlife Ltd);

Indicative Landscape Plan ref: 7200.01 Rev D: (Trevor Bridge Associates Ltd);

Phase I Geo- Environmental Assessment ref: EAL.08.23 (Erda Associates Ltd);

Transport Statement & Access Visibility Plan (M-EC) ref: 28016-TRAN-0801 Rev C

Noise Impact Assessment ref: 50-975-R1-2 (E3P);

Air Quality Assessment ref: 6737r3 (Redmore Environmental);

Odour Assessment ref: 6737-1r4 (Redmore Environmental);

Flood Risk Assessment and Drainage Strategy ref: 28016-FLD-0101 (M-EC);

HPC Care Home Need Assessment (Healthcare Property Consultants Limited).

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**NOT CONFIDENTIAL** - For public release

PLANNING COMMITTEE – 16 January 2024

**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
ENF/22/00119	Tythe Barn Close, Hob Lane, Kirk Ireton	WR	Appeal being processed
22/00212/FUL	38-40 St John Street, Ashbourne	WR	Appeal being processed
22/00213/LBALT	38-40 St John Street, Ashbourne	WR	Appeal being processed
22/00731/LBALT	Bradley Hall, Yew Tree Lane, Bradley	WR	Appeal being processed
ENF/22/00142	Land at Magfield Farm/Land to the east of Timber Farm, Hulland Village	WR	Appeal being processed
23/00472/FUL	Land To North East, Brailsford Water Mill, Mill Lane, Brailsford	WR	Appeal being processed
23/00450/LBALT	45 St John Street, Ashbourne	WR	Appeal being processed
23/00107/FUL	Walton House, Town Street, Brassington	WR	Appeal being processed
Central			
22/00772/OUT	Land opposite The Homestead, Whitworth Road, Darley Dale	WR	Appeal being processed
ENF/23/00037	Land south of Yeats Lane, Cromford	WR	Appeal being processed
T/22/00155/TPO	65 Lime Tree Road, Matlock	HEAR	Appeal being processed

ENF/23/00032	Spitewinter Farm Oakerthorpe Road, Bolehill, Wirksworth	WR	Appeal being processed
23/00149/FUL	Land at rear of 7 Malpas Road, Matlock	WR	Appeal being processed
ENF/23/00159	North Park Farm, Whitworth Road, Darley	WR	Appeal Withdrawn
22/011111/VCOND	Sunnybank, Whitelea Lane, Tansley	HEAR	Appeal being processed
23/00511/FUL	Bumper Castle Farm, Darley Dale	WR	Appeal being processed

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

**OFFICER RECOMMENDATION:**

That the report be noted.



## **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.

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