



## OPEN REPORT COUNCIL

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Extraordinary Council – 23<sup>rd</sup> January 2025

### **PART A) PLANNING APPEAL PUBLIC INQUIRY ARRANGEMENTS – LAND AT GRITSTONE ROAD, MATLOCK**

**Joint Report of the Director of Place and Economy and Interim Director of  
Corporate & Customer Services**

#### **Report Author and Contact Details**

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#### **Wards Affected**

Matlock West

#### **Report Summary**

The report updates members on the current arrangements appertaining to the imminent public inquiry which is scheduled to consider the refusal of the outline planning application for development of land between Sandy Lane, Bent Lane and Gritstone Road, Matlock for William Davis Limited (Application code 18/01242/EIA).

#### **Recommendations**

1. That Council notes the arrangements that have been taken to appoint experienced legal counsel and experienced expert witnesses.
2. That Council notes the revised public inquiry timetable for defending the appeal as set out in section 2 of the report.

#### **List of Appendices**

None

#### **Background Papers**

- Report to Community & Environment Committee: 21<sup>st</sup> November 2024
- Report to Council: 26<sup>th</sup> September 2024
- Planning application 18/01242/EIA (Planning Committee 28<sup>th</sup> March 2024)

#### **Consideration of report by Council or other committee**

No

**Council Approval Required**

Yes

**Exempt from Press or Public**

No

## **PLANNING APPEAL PUBLIC INQUIRY: GRITSTONE ROAD, MATLOCK**

### **1. Background**

- 1.1 At the meeting of the Community & Environment Committee on 21<sup>st</sup> November 2024, Members were informed that an appeal had been lodged against the refusal of planning permission for a residential development on land between Sandy Lane, Bent Lane and Gritstone Road, Matlock. The Planning Inspectorate have received an appeal by the applicant (William Davis Limited) and now propose to hold the appeal by Public Inquiry over eight days from 11<sup>th</sup> March 2025.
- 1.2 At its meeting on 26 September 2024, the Council resolved to approve a further supplementary revenue budget in 2024/25 for additional expenditure of £250,000, associated with defending other planning appeals, to be financed from the General Reserve. Budgetary provision of this magnitude for defending this appeal is therefore available.

### **2. The Appeal and Public Inquiry**

- 2.1 A public Inquiry will be held to consider the refusal of the outline planning application for site access for up to 345 Residential Units, Class E 'Commercial' uses including Retail and a Restaurant / Cafe, a Hot Food Takeaway (Sui Generis) Unit and Open Space including a Countryside Park and Play Area and associated landscaping and surface water attenuation at land between Sandy Lane, Bent Lane, And Gritstone Road, Matlock for William Davis Limited.
- 2.2 Planning permission was refused by the Planning Committee on 28<sup>th</sup> March 2024 for the following reasons:
- 1. The application lacks sufficient detail in order for the Local Planning Authority to be satisfied that the development can be delivered without resulting in flood risk on site, elsewhere or presenting unacceptable risk to public safety contrary to the requirements of Policies S1 and PD8 of the Adopted Derbyshire Dales Local Plan (2017) and the objectives of paragraphs 157, 173 and 175 of the National Planning Policy Framework (2023).*
  - 2. Without any understanding of the final design and construction of the surface water attenuation features proposed to accommodate habitat of very high distinctiveness / principal importance to be translocated, the Local Planning Authority cannot be satisfied that the development would not result in an unacceptable loss of biodiversity. The development is therefore contrary to the requirements of Policies S1, PD3 of the Adopted Derbyshire Dales Local Plan (2017) and paragraph 180 of the National Planning Policy Framework (2023).*

3. *Insufficient information has been submitted to demonstrate that the surface water attenuation features serving phases 2 - 4 and link road crossing the valley feature can be delivered in a manner that would not result in harm to the character and appearance of this part of Matlock, contrary to the requirements of Policies S1, S7, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) and Policy contained in the National Planning Policy Framework (2023).*
  4. *The application does not consider or include a mechanism to secure the level of affordable housing across the different phases of the development that can potentially be viably made and the applicant is not willing to include review mechanisms and clawback provisions in any legal agreement. The development therefore fails to maximise the delivery of affordable housing on this strategically important site and across the plan area contrary to the requirements of Policies S10 and HC4 of the Adopted Derbyshire Dales Local Plan (2017)*
- 2.3 According to an email from the Planning Inspectorate (PINS) dated 4 November 2024, an appeal was submitted to PINS on 12 September 2024, and the Appellant received an acknowledgement of their submission. However, due to the size and number of documents submitted, PINS' system failed to register the appeal and when PINS realised this it advised the Appellants to resubmit the appeal. This was done on 8 October 2024. The Council only received all the appeal documentation in early November 2024. The Council had limited time to respond to the appeal by the deadline of 4 December.
- 2.4 Members have previously been advised that the Council will need to put forward expert witnesses, to prepare the evidence and attend the public inquiry. They were also informed that Council would also need to appoint suitably experienced legal Counsel to defend the District Council's case at the Public Inquiry.
- 2.5 The District Council therefore acted to retain the services of the following highly experienced legal Counsel and expert witnesses:
- Thomas Cosgrove KC – Cornerstone Barristers
  - John Fitzsimons – Barrister at Cornerstone Barristers
  - Paul Instone – Director at Applied Town Planning Ltd.
  - Howard Keeble & Joseph Landells Molly – Civil Engineers at JBA Consulting
  - Neil Harwood – Associate Director (Ecology) at Arup
  - David Stokoe – Associate Director Landscape Architect at Wardell Armstrong
  - David Newham – Managing Director at CP Viability Ltd
- 2.6 In accordance with the prescribed timetable determined by the Planning Inspectorate, the key dates are now as follows:

- 31<sup>st</sup> January 2025 – Agree topic-based statements of common ground.
- 7<sup>th</sup> February 2025 – Exchange of proofs of evidence.
- 11<sup>th</sup> March 2025 – Public Inquiry start date.

### **3. Consultation**

- 3.1 All persons who were notified or consulted about the original application, and any other interested persons who made representations to the Council about the, have been notified by that the appeal has been made. They were told:
- i) that any comments they made at application stage will be sent to the Planning Inspectorate and the appellant and will be considered by the Inspector. If they want to make any additional comments a date will be specified when they must submit them;
  - ii) when and where the appeal documents will be available for inspection;
  - iii) that the Planning Inspectorate will not acknowledge representations. They will, however, ensure that letters received by the deadline are passed on to the Inspector dealing with the appeal;
  - iv) that they can get a copy of the booklet 'Guide to taking part in planning appeals proceeding by Inquiry on GOV.UK <https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal>;
  - v) that the decision will be published on GOV.UK.

### **4. Timetable for Implementation**

- 4.1 The Public Inquiry will be held over a planned eight days, with the start date proposed as 11<sup>th</sup> March 2025. A decision will to be issued by the Planning Inspectorate following the close of the Inquiry.

### **5. Policy Implications**

- 5.1 None.

### **6. Financial and Resource Implications**

- 6.1 At its meeting on 26 September 2024, the Council resolved to approve a further supplementary revenue budget in 2024/25 for additional expenditure of £250,000, associated with defending other planning appeals, to be financed from the General Reserve. Budgetary provision for defending this appeal is therefore available.
- 6.2 It should be noted that there is a risk that the Planning Inspector could determine that the Council must meet some or all of the appellant's costs, which could be significant. Should this be the case, approval would be sought for a further supplementary budget should the provision above not be sufficient.
- 6.3 The financial risk of this report's recommendations is assessed as medium.

## **7. Legal Advice and Implications**

- 7.1 This report sets out the arrangements taken to prepare for a Public Inquiry within the timescales required by the Planning Inspectorate.
- 7.2 There are, without doubt, risks connected to any legal proceedings.
- 7.3 With specific reference to the 2 decisions recommended to be taken as set out at the beginning of this report, the risk of legal challenge associated with taking the decisions as recommended has been assessed as low.

## **8. Equalities Implications**

- 8.1 None in this report.

## **9. Climate Change and Biodiversity Implications**

- 9.1 None in this report.

## **10. Risk Management**

- 10.1 The approach recommended in the report seeks to maximise the robustness of the Council's case at the forthcoming Public Inquiry. Securing strong representation is necessary for a successful defence of the appeal.

### **Report Authorisation**

Approvals obtained from Statutory Officers:

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Paul Wilson	21/01/2025
Director of Resources/ S.151 Officer (or Financial Services Manager)	Karen Henriksen	21/01/2025
Monitoring Officer or Legal Services Manager	Kerry France	21/01/2025