

# Planning Committee 13<sup>th</sup> September 2022

<b>APPLICATION NUMBER</b>		22/00395/FUL	
<b>SITE ADDRESS:</b>		Young Explorers Day Nursery, Old Road, Darley Dale, Matlock	
<b>DESCRIPTION OF DEVELOPMENT</b>		Change of use from former Day Nursery (Use Class E) to a Residential Care home for children and young people with complex care needs (Use Class C2) with associated alterations	
<b>CASE OFFICER</b>	Sarah Arbon	<b>APPLICANT</b>	Mr Alan Cartlidge
<b>PARISH/TOWN</b>	Darley Dale	<b>AGENT</b>	Mr Paul Doughty
<b>WARD MEMBER(S)</b>	Cllr M Salt Cllr A Statham Cllr J Atkin	<b>DETERMINATION TARGET</b>	1 <sup>st</sup> June 2022
<b>REASON FOR DETERMINATION BY COMMITTEE</b>	At Chairs request	<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</li> <li>- Impact on residential amenity</li> <li>- Character and appearance</li> </ul>	

<b>RECOMMENDATION</b>
Refusal

## 1.0 THE SITE AND SURROUNDINGS

1.1 The site is located on the corner of Old Lane and the A6 in Darley Dale. The building originally was a large detached 'Swizz Style' dwelling, with previous uses as a hotel and most recently a children's day nursery. The building sits adjacent to the A6 with extensive grounds to the west and a large car park to the south on the corner of the two roads with a Coach House and outbuildings to the north west. Mature trees are within the grounds adjacent to the car park and within the rear garden area. There is a private access enclosed by stone walls off Old Lane just west of the junction with the A6. The site is isolated from residential properties with the nearest to the south west on Old Road.



## 2.0 DETAILS OF THE APPLICATION

- 2.1 The proposal is to make alterations to the existing building to create separate residential accommodation for three young people with complex care needs. The use class of a children's day nursery falls within Class E and the proposed use would be categorised as Class C2 (Residential institutions). The proposal includes provision of facilities for staff, facilities and overnight accommodation in the existing outbuildings to the north west, removal of the porch on the south eastern elevation and removal of the canopy over the rear garden area together with reducing the glazed section on the link to the ground floor extensions to a window and a door.
- 2.2 The existing car parking area to the south east of the building would be retained and laid out with 31 spaces. The main building would be divided into three separate flats, one for each occupant. Two large one bedroom flats would be accommodated on the ground floor together with a kitchen and store. A smaller one bedroom flat would be on the second floor with two staff rooms including an en-suite bedroom. The roof space would be utilised for three staff rooms and a store room. Each person would have separate circulation space

both within and outside the building in order to meet their needs. The separate two storey building within the courtyard would accommodate a staff kitchen and dining room on the ground floor with administration rooms on the second floor.

- 2.3 The arboricultural report recommends the removal of three groups and eight individual trees to facilitate the development, four of which are category B trees.
- 2.4 The applicant has put forward the following in support of their application, stating that the proposal would:
- Regenerate and preserve a building that is in decline into a vibrant facility
  - Facilitate the provision of a much needed health service through targeted investment
  - Bring displaced complex needs children back into Derbyshire where care facilities are not always available to cater for these children
  - Offer stable and comprehensive care to the children for their journey into adulthood or the provision of a 'home for life'
  - Create circa 50x Full Time Equivalent local jobs at much higher than national minimum wage to stimulate the local economy
  - Support the wider Government objectives for the provision of specialist care to children
  - Replace a community use that is no longer needed with a facility for which there is a clear need

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

- 3.1 Adopted Derbyshire Dales Local Plan 2017  
S4 Development in the Countryside  
PD1 Design and Place Making  
PD6 Trees, Hedgerows and Woodlands  
PD10 Matlock to Darley Dale A6 Corridor  
HC8 Conversion and Re-use of Buildings for Residential Accommodation  
HC15 Community Facilities and Services
- 3.2 Darley Dale Neighbourhood Plan 2019  
NP 1 Protecting the Landscape Character of Darley Dale  
NP 20 Enhancing the Provision of Community Facilities
- 3.3 Other:  
The National Planning Policy Framework (2021)  
National Planning Practice Guide

### **4.0 RELEVANT PLANNING HISTORY:**

10/00452/FUL	Erection of outdoor weather canopy	PERC	03/08/2010
05/00623/FUL	Change of use and extension of coach house to dwelling	REF	29/09/2005
06/00208/FUL	Change of use and conversion of coach house to living accommodation	PERC	07/06/2006
1290/1072	CONVERSION OF STORAGE BUILDING TO ADDITIONAL HOTEL ACCOMMODATION	A	06/02/1991

1290/1059	EXTENSION TO HOTEL (FUNCTION ROOM)	A	31/01/1991
1188/0866	EXTENSION TO HOTEL	A	17/01/1989
0888/0584	EXTENSION TO HOTEL TO PROVIDE CONFERENCE SUITE AND ADDITIONAL BEDROOMS	R	14/09/1988
01/08/0562	Change of use of existing hotel to 4 no. apartments and erection of three storey extension to accommodate 6 no. apartments	R	03/10/2001
01/08/0561	Erection of 12 apartments	R	03/10/2001
99/10/0711	Erection of two dwellings (outline), Dales and Peaks Hotel Car Park, Old Road, Darley Dale	R	22/11/1999

## 5.0 CONSULTATION RESPONSES

- 5.1 Highway Authority: No objections in view of previous use of the site.
- 5.2 Environmental Health: No objection.
- 5.3 Darley Dale Town Council: No objection to the proposed change of use of the building however object to the proposed removal of trees and shrubbery surrounding the building.
- 5.4 Tree and Landscape Officer: No objection subject to submitted reports / proposals.

## 6.0 REPRESENTATIONS RECEIVED

- 6.1 Cllr Sarah Halliwell has made the following comments:

“At a full Darley Dale Council meeting earlier this year I expressed my delight that such an important resource was being proposed in our community. Consequently, I was surprised to see this property go on the open market and so booked a viewing with the vendor to discover why the original scheme had apparently failed.

I spoke with the applicant and he explained that the buildings were on the market at the direction of the district planning office. I asked him to forward the relevant correspondence to me so I could better understand the objections to the scheme and he has sent me the relevant correspondence and I must confess to be puzzled by the approach adopted.

  
Derbyshire  
Dales has inadequate levels of provision for some of its most vulnerable residents. I am delighted that this former nursery is being considered for such a key unmet community need. Whilst it has been sad to see the closure of this nursery, it is entirely understandable that it ceased to trade. Not only did COVID 19 significantly impact the way we work, decreasing the demand for nursery places. Nurseries have experienced increasing challenges to how they finance their business model. The pressure to professionalise nursery care, changes to funding and rises in National Insurance has made many financially unviable. The market supply for nursery places locally exceeds current demand, with many childminders also having vacancies. (Please see attached research). These should be more than sufficient to meet any increased demand produced by the families

moving in to the Whitworth Dale development. In this context, given that H15a has been met. I do not see the community benefit in requiring a prolonged period of marketing.

Whilst I appreciate your vigilance in seeking to safe guard a community asset, I am struggling to see why we are preventing the development of a provision that is desperately needed in our local area, at an ideal site, with reputable and experienced care providers. The applicant informs me that both the adult and children's care commissioners have visited the site and are eager to partner with applicants. Recognising it is an ideal site. In this application, we have the opportunity to support the most unsupported members of our wider community and their families. These individuals can't speak for themselves. Their needs repeatedly go unmet; causing harm to both them, their siblings and families. Provision, assessed as necessary by EHC plans and the SENDIST tribunal cannot be met locally. [REDACTED]

[REDACTED] Having unmet needs due to lack of provision is common within SEND community, with children often placed hundreds of miles away from their families. Families and young people are regularly unable to access short breaks as part of specialist children and youth groups.

Extremely vulnerable and complex children and young people are often removed from their home county and sent out of county to receive the care that they are legally entitled to. They are denied the right to a family life, as family have to travel extended distances for regular contact. This places a huge and excessive financial burden on the council's care budgets. Families additionally face the financial and emotional pressure of juggling home life with visiting a child miles away. It is common for carer-parents to be in food and fuel poverty, to develop stress related health complaints and to become reliant on benefits to survive. Furthermore the impact on the environment, from numerous car journeys should not be overlooked. We can and must do better.

I note from the original Local plan that a closing nursery needs to meet either HC15A or H15B & C. This appears to have been fulfilled. Has this policy change been amended and ratified by the district council to include these updated directions as this direction seems to place additional restrictions on this proposal, beyond the spirit of the original neighbourhood plan. This plan will bring substantial investment to Darley Dale and enable the regeneration of this building into a sustainable socially responsible business.

Instead of insisting that this building remain on the market for 12 months, slowly declining, please reconsider this recommendation and approve the application, allowing the redevelopment to move ahead. I respectfully suggest we embrace the spirit of the local plan and its wording, and encourage this application. The result would be more employment for local people in a wide range of roles, providing up to the equivalent of 50 full time roles. We need local employers in the area and I urge you to consider how we might work to bring this needed provision to our locality."

## **7.0 OFFICER APPRAISAL**

The following material planning issues are relevant to this application:

- Principle of development
- Character and appearance
- Residential Amenity

### Principle of development

- 7.1 The site is located outside the settlement boundaries of both Matlock and Darley Dale and therefore is in open countryside. The part of the site used for car parking is covered by Policy PD10 - Matlock to Darley Dale A6 Corridor which seeks to safeguard the intrinsic character and quality of the open spaces through the Derwent Valley between Matlock and

Darley Dale and prevent further coalescence of the settlements. Policy S4 allows the conversion and re-use of buildings in accordance with Policy HC8. Policies HC15 and Neighbourhood Plan Policy NP 20 are relevant for development of community facilities, though Policy NP 20 only refers to the provision of new or improved facilities.

- 7.2 A nursery is classed as a community facility and Policy HC15 states that development which involves the loss of a community asset or facility will only be supported where it can be demonstrated that the existing use is no longer needed to serve the community, it is no longer financially or commercially viable as demonstrated. The nursery was severely impacted by the pandemic and closed in 2021. Prior to the pandemic it only cared for 42 children and had 13 staff and post Covid children could only be accommodated in bubbles of 16. The submitted Planning Statement identifies thirteen competing businesses now offering nurseries services for Matlock and Bakewell.
- 7.3 The application therefore provides some evidence of the lack of viability of the existing use together with the renovation costs required to upgrade it. With regard to the proposed use, a letter from DCC Children's Services has been submitted which states that there is a need for specialist provision to support complex older children in Derbyshire. This letter does demonstrate the need for such facilities within the County, however, in order to balance the loss of a community facility the need would have to be established within the District rather than County wide. In the absence of this justification the proposal cannot be considered a facility meeting the needs of the community and as such Policy HC15 requires the property to be marketed.
- 7.4 The supporting text to Policy HC16 states at Para 6.45 that loss of an important local service and facility will not be granted until all possible options have been explored to maintain the existing use. Policy HC15 states that the loss the use of the building as a community facility would only be supported where:
- a) There is evidence to demonstrate that the existing use is no longer needed to serve the needs of the community **or**
  - b) The existing facility is no longer financially or commercially viable as demonstrated by a robust and comprehensive marketing exercise with the facility actively marketed at a realistic price for a continuous period of at least 12 months immediately prior to submission of an application **and**
  - c) The use or facility has been offered to the local community for their acquisition/operation at a realistic price.
- 7.5 Whilst it is clear from the evidence that the effect of competition and the Covid-19 virus has had an impact upon the financial viability of the business significant enough to warrant closure of the existing building as a day care nursery. It is also clear that the building has not been subject to a 12 month period of marketing nor has the building been offered to the local community for their acquisition/operation at a realistic price. As such, the proposal is able to satisfy Criterion (a) but cannot fully satisfy either criterion (b) or (c).
- 7.6 Given the wording of Para 6.45 in the adopted Derbyshire Dales Local Plan that says that planning permission will not be granted until all possible actions have been explored to maintain the existing use, it does require compliance with a combination of criteria (a) and criteria (c) or criteria (b) and (c). It is considered that criteria (b) and (c) have not been complied with. The owners of the site have been undertaking a marketing exercise since July. Originally the marketing was considered insufficient as the price was not specified, however, this was changed on the 16<sup>th</sup> August 2022 to offers over £1,200,000. Therefore, by the date of the planning committee on the 13<sup>th</sup> September 2022 the premises would have been marketed for a period of 28 days, whereby a sufficient

marketing period specified in the Policy HC15 is for a period of at least 12 months immediately prior to the submission of an application.

- 7.7 The applicant sought pre-application advice and in the response received on the 30<sup>th</sup> March 2022 it specified that a marketing exercise would be required in order to comply with Policy HC15. In an appeal for the Darley Hillside Methodist's church the Inspector concluded that adequate marketing had been undertaken and this was in a form of a 'property performance report' which incorporated details of where the premises were advertised and appropriate interest and feedback was summarised. The inspector thus concluded that marketing methods were undertaken and it was on the basis of its current community use and offers in the region of the valuation and took the view that based on the evidence of the agents valuation he had no reason to disagree that it was not a realistic price within current market conditions. Furthermore, in that case, marketing was undertaken for over the required 12 month period. It is therefore, on this basis, with only the limited period of marketing and evidence that it is considered that insufficient marketing has been undertaken in this case and refusal is recommended.

### Character and appearance

- 7.8 Policy PD1 requires all development to be of high quality that respects the character, identity and context of the townscape, contributes positively to an area's character in terms of scale, height, density, layout, appearance, materials and relationship to adjacent buildings.
- 7.9 The proposed change of use would renovate the existing building which is in need of repair and maintenance and this is welcomed. The external changes are minor and are considered acceptable. The building is prominent on the A6 and makes a positive contribution and can be converted without extensive alteration, extension or rebuilding and as such accords with Policy HC8.
- 7.10 The proposal would affect existing mature trees on site a number of which would be removed to facilitate the development. The Tree and Landscape Officer has been consulted and raises no objection provided that the development and works are carried out in accordance with the submitted reports. Any mitigation and replacement planting could be secured by appropriate planning conditions.

### Conclusion

- 8.0 Therefore, the main issue in this case is that sufficient marketing evidence is required to assess the re-use of this community facility. Whilst the need for the proposed development is recognised, the facility for care should reflect a local need rather than a county wide need in order for it to be balanced against the loss of the nursery, a facility which policies generally seek to retain for use by the local community.

## **8.0 RECOMMENDATION**

That planning permission be refused for the following reason:

1. Insufficient evidence has been provided of an appropriate marketing campaign offering up the sale of this community building for continued community use at a realistic price which reflects its current use rights to justify the permanent loss of the existing community facility. As such the proposal would result in the unjustified loss of a local community facility contrary to the aims of policy HC15 of the Derbyshire Dales Local Plan 2017.

## **9.0 NOTES TO APPLICANT:**

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 submission of some evidence, however, this has not overcome the principal issue of lack of appropriate marketing for community use.

This permission relates solely to the following application plans and documents:

Plan no's PL. 001, 002, 003, 005, 006, 007 Rev A

Letter from DCC dated 11<sup>th</sup> February 2022

Applicant's email of the 16<sup>th</sup> August 2022 regarding marketing

Planning Statement

Arboricultural Report by Thompson Tree Services dated January 2022

Tree Location Plan

Tree Constraints Plan

Tree Schedule