

# Planning Committee 20<sup>th</sup> February 2024

<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 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