

**PUBLIC PARTICIPATION AND REPRESENTATIONS/ CONSULTATION
RESPONSES RECEIVED FOLLOWING PUBLICATION OF THE AGENDA**

PLANNING COMMITTEE MEETING HELD ON 20th APRIL 2021

**LATE REPRESENTATIONS RECEIVED IN RESPECT OF ITEM 5.1 VARIATION
OF CONDITION 3 OF PLANNING PERMISSION 16/00374/FUL TO SUBSTITUTE
SOUND MITIGATION MEASURES SET OUT IN THE NOISE IMPACT
ASSESSMENT BY PEAK ACOUSTICS DATED JULY 2016 WITH ACOUSTIC
FENCING AT FOUR LANE ENDS FARM, GIBFIELD LANE, HULLAND WARD**

**1. THE FOLLOWING COMMENTS HAVE BEEN RECEIVED FROM THE
COUNCIL'S LEAD ENVIRONMENTAL HEALTH OFFICER WHICH MEMBERS
ARE ADVISED TO NOTE:**

I have reviewed the conditions and subject to a recommended slight amendment to condition 3 have no objections.

In regards to condition 3, I would recommend that the definition of puppies be clarified to be offspring of the licenced breeding bitches which are intended for sale. In addition, I would recommend it is made clear that the young stock dogs are contained within the 35 permitted dogs on site.

Officer Comments:

In light of the above comments, should members be minded to approve the application it is recommended that any Condition 3 be varied in any decision notice to read:

3. *Excluding puppies (i.e. offspring of the licenced breeding bitches which are intended for sale), the maximum number of dogs on site including young stock shall not exceed 35 no. at any one time.*

**2. THE FOLLOWING ADDITIONAL COMMENTS FROM HOGNASTON PARISH
COUNCIL HAVE BEEN RECEIVED WHICH MEMBERS ARE ADVISED TO
NOTE:**

Hognaston Parish Council (HPC) object to the variation on the following grounds:

NOISE ASSESSMENT 2016

- Peak Acoustic Noise Assessment dated 20/7/2016 clearly established a baseline
- Page 4 clearly shows the location of the monitoring equipment at both Four Lane Ends and Brick Kiln Farm
- Residents of Brick Kiln farm clearly remember the monitors being placed on their front lawn near to the kitchen.

- The results of the report clearly identified that the dB readings were in excess of BS 8233:2014: and further measures were recommended to reduce the level of noise

NOISE ASSESSMENT 2020

- Spire Environmental Noise Assessment dated 26/10/2020 documents dB results post installation of acoustic fencing at Four Lane Ends
- Page 6 clearly shows the location of the monitor equipment for Four Lane Ends and Brick Kiln Farm
- The monitor for Brick Kiln Farm was placed in a different location to that used to create the original baseline - ie it has been placed away from Brick Kiln Farm, in the verge right next to the road

OBJECTION

- By placing the monitoring equipment used in the 2020 noise assessment in a completely different location it invalidates the use of the original baseline as a comparison.
- Results of this assessment cannot be compared to the baseline documented in 2016 to establish what decrease, if any, has been achieved by the installation of the acoustic fencing and if any decrease in dB meets BS 8233:2014:
- The location of the 2020 monitor placed next to the highway means that traffic noise will now be included in the readings. Traffic noise will not have been included in the original baseline.
- In order to draw a more accurate conclusion the monitoring should, as near as possible, be carried out so that it replicates the original monitoring which established a baseline.
- HPC are of the opinion that to conclude that Brick Kiln Farm is not impacted by noise from the kennels is an incorrect decision as the two assessments are not representative of each other.

Please also note that Hognaston Parish Council received a complaint about the noise earlier this year. Also, Derbyshire Dales District Council (DDC) do not seem to have any record of complaints since November 2019, however, local residents have confirmed to HPC that they have made complaints via email and telephone and they are concerned that these complaints do not seem to have been captured and recorded by DDDC.

3. THE FOLLOWING COMMENTS FROM ATLOW PARISH COUNCIL HAVE BEEN RECEIVED WHICH MEMBERS ARE ADVISED TO NOTE:

Members who have not been involved with previous applications from this premises will be unaware of the history. I therefore attach a brief timeline of events concerning complaints about noise and planning applications since 2012 and would wish to make the following comments:

The Noise Nuisance

1. *It is absolutely critical to understand that the noise nuisance from dogs at Four Lane Ends Puppy Farm has always been sporadic and unpredictable. It may occur for several hours, days or even several weeks, sometimes with barking starting early in the morning and going on until late at night. There are also periods of days; weeks; and even months with little or no noise.*
2. *The above pattern of the disturbance, combined with the small number and high workload of Environmental Health Officers; and a single noise monitoring machine for the entire District which has to be operated by hand and has not always been reliable, has made it very difficult to collect sufficient evidence of Nuisance to persuade the Environmental Health Department (EH) to proceed with enforcement action.*
3. *It took over 3 years to gather the evidence EH required to issue a Noise Abatement Notice. 4 more years have passed without getting the evidence they require to take Court Action, which I understand would be the next step.*
4. *However, on the **many occasions in the last 9 years** that the noise has been severe, a group of the nearest neighbours have been caused serious nuisance; stress; and loss of amenity. **THIS IS STILL HAPPENING.***
5. *Whilst many Atlow, Hognaston; and Hulland residents report hearing the barking, (and have been especially irritated by it while they have been at home more during the pandemic), the most severe disturbance is caused to the residents of two houses in Atlow, - Brick Kiln Farm and Orchard View, - we believe probably due to their position and the prevailing wind. The occupants of these premises, Mr & Mrs Hutchinson; and Mr & Mrs Sheffield; are all elderly and some are in very poor health.*

The Failure to Meet Conditions

1. *Planning Permission with Conditions was granted by Committee in May 2017 (for dog breeding; dog boarding; and business use); and in March 2018 (to vary 2 of the 2017 conditions to allow cat boarding instead of dog boarding). I attach the Decision Notices following both of these meetings which list all the conditions.*
2. **NONE of the time-limited conditions specified in either of these approvals have been met.**
3. *One of the specific prohibitions (that the replacement 15 kennel block should **never** house breeding dogs and could only house **boarding** dogs or cats **after** DDDC's written approval of the necessary alterations) has been directly broken by the housing of boarding dogs in the kennels during the last 2 years. The use of the 15 kennel block was reported to EH by residents in 2019, (not discovered by any Regulatory Service Officers as part of compliance inspections.)*
4. *The applicant informed the Planning Department that they only housed dogs in the 15 kennel block after the acoustic fence was erected, but they had not arranged the necessary independent assessment or received DDDC's written approval as specified in the conditions from 2017 and 2018.*
5. *The Cat Boarding Plan has never been implemented – could it possibly have been introduced as yet another a delaying tactic in the long history of obstruction and obfuscation by the applicant in this case?*

The Effectiveness of the “Acoustic Fence”

1. Mrs Dawn Lewis, on behalf of Hognaston Parish Council has submitted a detailed and vital account of why the October 2020 Noise Impact Assessment is completely unreliable due to the inappropriate siting of the sound recorder near Brick Kiln Farm. It is most regrettable that this situation was not addressed by the EH Officers in their scrutiny of the Assessment.
2. The Officer's Report for the next Planning Committee Meeting this Tuesday, 20th April 2021, states that there was one report of noise from the site towards the end of 2019, (this was from Mrs Hutchinson on 15th November and pointed out that dogs were being kept in the prohibited kennels). The Officer's Report goes on to say that there have been no reported incidents of noise since. **THIS IS NOT TRUE:-**
3. Following a fairly quiet spring and summer in 2020, the noise was bad from the autumn and has continued, sporadically as usual, ever since. Mrs Hutchinson made several complaints by email and received at least one reply explaining that EH Officers were working from home due to the pandemic. Mr Sheffield made several calls to the EH Department, leaving voice messages to which he received no response. I myself mentioned this lack of response and the ongoing noise nuisance over the telephone to you personally on at least two occasions over the winter of 2020/2021. If these messages were genuinely lost during the pandemic we can only urge the EH Department to implement more safeguards for complaints submitted by email or voicemail when Officers are not in the office. However, these residents should not suffer because of these failures, and false information cannot be presented to Committee.
4. Therefore, the acoustic fence does **NOT** provide suitable attenuation in relation to all dog kennel buildings. Indeed, the noise since autumn 2019 has been so loud that it specifically alerted Mrs Hutchinson to the fact that dogs were being kept in the prohibited kennels.

Other Issues from the Current Application

1. The Officer's Report clearly states (7.1) that the purpose of this application is to "regularise" the fact that dogs have been kept in housing that had been specifically prohibited by the PP granted in 2017. Regulatory Services have known that this was the case since November 2019. Mr Braund told me in an email dated 3rd December 2019 that he hoped the matter would be addressed by the January 2020 Planning Committee, - this process has actually taken **15 months! WHY WERE THE APPLICANTS ALLOWED TO CONTINUE USING THE PROHIBITED KENNELS IN THE INTERVENING PERIOD BEFORE THE MATTER COULD GO BEFORE THE PLANNING COMMITTEE?**
2. The Officer's Report states (7.10) that the conditions imposed on earlier permissions will have to be re-stated. **THIS RELATES TO UNFULFILLED CONDITIONS GOING BACK TO MAY 2017, WHICH WERE RE-STATED IN MARCH 2018. HOW MANY TIMES ARE CONDITIONS GOING TO BE RE-STATED AND THEN IGNORED?**
3. The Officer's Report states (7.10) that the existing licence, issued in September 2020 (at a time when EH Officers were apparently unable to respond to complaints!) – is for a maximum of 30 breeding bitches and 4 stud dogs. Although the numbers of dogs specified has varied over the years, there has always previously been an allowance made for young pre-breeding

stock. Clarification is needed on whether these young bitches are included within the 30 and the impact that any dog boarding would have on these numbers if it ever takes place.

4. The Officer's Report (7.12) states that "Subject to controls remaining in place relating to the use of the buildings, dog numbers, its management and retention of the acoustic fence during the operation of the site for the kennelling of dogs, it is recommended that the application be approved." **HOW ON EARTH CAN THE COMMITTEE HAVE ANY CONFIDENCE THAT ANY OF "THE CONTROLS WILL REMAIN IN PLACE" WHEN NOT A SINGLE ONE OF THE CONDITIONS SET OUT AS PART OF THE PP GRANTED IN 2017 HAS YET BEEN DISCHARGED?**

COMMENTS RECEIVED RE: ITEM 5.3 – PLANNING APPLICATION FOR A CHANGE OF USE OF HAIRDRESSING SALON WITH RESIDENTIAL ACCOMMODATION TO HOUSE IN MULTIPLE OCCUPATION (USE CLASS C4) AT 50 WELLINGTON STREET, MATLOCK

Two emails have been received from Mr P Branford of 3 Oldfield Villas on the 11th and 18th April 2021 which are included below:-

I write in response to the Officers Report submitted to the planning portal on 09th April (20/01165/FUL) and wish to request clarification on some of the information in the report, for myself and for the Committee.

Firstly paragraph 2.2 states 'The existing storage building would be used for bin storage and the existing outbuilding for cycle storage.'

You seem to imply there are two separate buildings available for storage, one for bicycles and one for waste. However, the plans show just a single out-building. Is it the case that both waste and bicycles are to be stored this single out-building? When you visited, you informed us that you would be requesting the dimensions of the "cycle store" as they had been requested by a councillor. These are still not included in your most recent report, can you please advise the committee on these measurements, and whether it is a sufficient size to store waste and bicycles?

Secondly paragraph 7.11 states 'The National Planning Policy Framework advocates the development of under-utilised buildings...'

I am unsure why this is relevant as the current premises is an occupied residence and a salon business. The definition of an under-utilised building is 'a building that is vacant or mostly vacant'. 50 Wellington Street is neither of these.

Of course, we are aware that the business has not been able to open due to Covid 19 restrictions but according to the salon's own website they are reopening on April 12th as per the easing of these restrictions. As this premises has been an operational salon for nearly 30 years and a family home this does not meet this definition of an under-utilised building and clearly shows its current usage is a viable option for the property. I fear your comment leads the committee to believe otherwise.

Please can you clarify the above points prior to the Committee hearing on the 20th April to ensure fair and accurate information can be assessed by all, leading to an informed decision by the Committee.

From our initial planning objections both in writing and during the last meeting we feel that adequate solutions to the issues raised have not been provided. These issues all support our statement that the proposed change of use of this building, in this specific location, is not suitable. These are as follows –

- Loss of amenity in outdoor spaces due to noise. Regular noise generated by 4 unrelated people does not equate to that of one family. Noise levels are already amplified by the close proximity of the buildings. We appreciate the recommendation by the planning officer but we are unsure how it is possible to stop noise leaving the property.
- Loss of amenity in outdoor spaces due to potential odour and pests caused by unclear plans for waste management for waste of 4 **unrelated** residents, metres from our properties on a south facing “terrace”.
- Loss of amenity in outdoor spaces due to overlooking. We do not dispute that a relationship already exists, however occupation by 4 unrelated individuals rather than one family changes this relationship, increasing overlooking.
- Loss of amenity due to reduction in available parking. At the last meeting this was discussed from a Highways point of view and was not address as a loss of amenity. A reduction in customers during opening hours does not equate to several new permanent residents, which will make parking difficult **at all times**.

In addition, we have pressing concerns regarding the accuracy of the information that the committee is being provided with and these appearing to have not been verified by the planning officer. For example, the “cycle store” being too small to hold bicycles, the rooms too small to hold all the proposed furniture, the building being wrongly described as currently under-utilised and the wall to combat overlooking being previously described as ‘high’ in fact being only 1m tall.

The Local Plan (paragraph 4.12) says “Inappropriately located new development can have unsustainable consequences” so care must be taken when addressing the development needs of Derbyshire Dales and efforts should be made so that “community well-being is addressed”, I think you will see below that we have many concerns not only for our immediate community but for the future of Matlock. We feel that during this process the emphasis has been on whether this application can be accepted, with seemingly no thought on whether it should be, and it is the latter that will dictate how Matlock not only recovers from the current pandemic, but also how it keeps its identity of being a thriving, historical town.

In lieu of the Committee being able to make a site visit, the information you are being shown by the planning officer is all you have to make your judgement on, which at the time of the first hearing did not even include any photographs from the point of view of the surrounding properties. We are fully understanding of your decision to defer until you were given more detailed information, as it is the integrity of the Planning

Committee that is at stake. We are very confident that if a site visit could take place and the Committee had their own first-hand information of the site in addition to the report, you would be in agreement with all the speakers at the last hearing having gained a clearer understanding of the unsuitability of the site.

We feel that the planning department had long ago made up their mind to approve this application, as the development looks to tick several boxes specifically for that of affordable accommodation and sustainability, yet information on how this would be delivered is lacking and details provided have not been checked. We do not want you to make your decision based on inaccurate information and be responsible for a legacy of inappropriate housing.

The proposed "cycle store" implies that they are trying to reduce the reliance on the private car, something which we see is outlined favourably in the Local Plan. The proposed "cycle store" is not big enough to hold an adult bike. This is based on measurements that have been taken from the applicant's scale plans as these measurements were never provided, even after they had been requested, presumably as they would highlight this failing. The lack of facilities for storing bikes and challenging gradient further increases the need for any tenant to own a car, the lack of parking in the area even caused the planning officer to be late for our meeting.

The planning officers second report states "The existing storage building would be used for bin storage and the existing outbuilding for cycle storage". On the plans there is only one building on the "terrace" so the cycle store and the waste store are one and the same building. We feel this sentence from the report is very misleading for the committee. We emailed the planning officer to clarify this for you with no response or obvious amendment to the report. This single outbuilding that measures approximately 1.2 x 1.1 metres, is to be housing all waste as well as bicycles for four residents. We would question whether this is the "adequate bin storage" requested by Environmental Health.

The property is described in the report as an under-utilised building it is currently occupied as a private residence and as of 12th April, in line with the easing of Covid restrictions, the business is operational. By definition it is not under-utilised, so should not be used as a reason to approve this change of use.

Changing the use of this building sets a precedent for any businesses in Matlock that have been impacted due to Covid restrictions. If more businesses are changed in to HMOs rather than being encouraged to be taken over as existing retail units, the shops and amenities that the planning officer uses as being a positive for the location of this development, will no longer be available to support the community, ironically making Matlock less sustainable. We are aware there are plans to turn 54 Wellington Street (next door to salon) to a similar arrangement if this planning application is approved.

As a sustainability professional I am disappointed with the planning departments miss-use of the word sustainable. This particular building is no more sustainable than anywhere else in Matlock. It can be argued that it is actually less sustainable due to its challenging position, distance from services in town, in addition to discrimination against anyone with a disability or lower skilled jobs in favour of professionals.

There may be no minimum room sizes laid out in legislation for an unlicensed HMO, but this should not mean that we dictate that people should have to live in small, cramped rooms, which are not large enough to fit in all the furniture suggested by the applicant to make their proposed accommodation sound appealing, again something that was not verified by the planning department. Policy S1 of the Local Plan states DDDC should be "Seeking to secure developments which provide a high standard of amenity for all existing and future occupants".

With all these issues, it is very possible that a currently occupied family home and business premises will be turned into cramped bedsits which will be unappealing to live in for a large portion of the residents of Matlock and will become the under-utilised building that the planning officer claims it already is.

We feel like objectors to planning applications are being vilified and seen as people objecting for the sake of being a nuisance to the process, rather than because we have concerns about possible effects on our community based on our own experiences of living in the area set to be affected. We do not appreciate seeing obvious attempts to influence the Committee, many of which are not familiar with the area, with misuse of terms and misleading information.

Councillor Sue Burfoot asked the following questions:

How many storage units are there on the outside 'terrace'? I understand there is only one. What are the dimensions of it?

How practically can noise leaving the property be controlled?

Why in the report is the building considered under-utilised at present when the salon is open and there is residential accommodation also there.

RESPONSE:

The agent has provided the following for clarification.

The outbuilding is only about 1.5m x 1.2m. Enough space for 2 bikes. Any additional bikes would have to be left outside on the terrace as this is the only outbuilding. As stated previously waste storage is already collected by the Council in bin-bags which can be stored in the communal storage area under the stairs and/or in a container located on the rear terrace (at the bottom of the steps – see Viewpoint 2 on the committee presentation)

There is no effective screening to the terrace.

There is no reason to believe that more noise will be generated than that attributable to its current use, as the rooms will be limited to single occupancy. The main communal room has its window on the Wellington Street frontage.

I'm not sure how the suggestion of under-utilisation has arisen but the property has severe limitations because the layout means that the salon cannot operate separately from the residential use and this limits employment in the salon to the occupant of the residential element.

Officers note the other points raised which are addressed in the Officer's Report.

**COMMENTS RECEIVED RE. ITEM 5.5 – PLANNING APPLICATION 20/00539/FUL
ERECTION OF REPLACEMENT DWELLING AND A SWIMMING POOL BUILDING
(MODIFICATIONS TO PREVIOUSLY APPROVED PLANNING APPLICATION
15/00718/FUL) AT BENT FARM, FARLEY HILL, FARLEY**

1. Written copy of 3 minute submission by Mr. Petch regarding Bent Farm rebuild, prior to planning committee meeting on 20/4/21

When planning permission was initially sought for the rebuild of Bent Farm, my wife and I inspected the proposal with interest. I knew the old farmhouse and agreed it was structurally compromised.

We accepted that the new building would be larger than the original house but were encouraged that the structure would move back from the roadside and would use materials found in local architecture.

I inspected the drawings and read the design statement, finding references to a building which blended into the landscape, softened by landscaping. We did not object to the application.

Now we see a building that deviates from both the original application and the recent amended drawings in an astonishing number of ways, indeed, the officer's appraisal, at 7.9 lists 15 discrepancies impacting character and appearance of the site.

To give three examples, the dining room arm which originally was specified as single storey, has been built 2.2metres too tall and rather than being a minimum of 1800mm from highway boundary has been positioned right up to the boundary. It now looms over highway users and leaves no room for landscaping nor for the promised stone wall.

The entire main block has also been built significantly higher than the permitted height and the ridge fails to step down, but continues straight across the block

The pool block, supposedly designed to resemble an agricultural building uses plastic cladding rather than timber, has window and door openings where none were specified and is built in the wrong position. The roof lights which initially comprised 8 very small windows now has 10 very large windows. It has been built taller than permitted and it appears that a second floor has been installed despite not being detailed on any drawings.

How on earth can officers recommend approval given this level of non compliance?

Another key fact is that the building was constructed using a steelwork frame, and this frame stood for months before stone was used to fill the voids. The developer knew from the minute he commissioned the steel that he was deviating from the

permitted design. There was no mistake. He gambled that authorities would not check the structure and he was right.

I contacted the Planning Department in 2019 outlining my misgivings and yet the building was allowed to progress.

Ironically, officers now appear to base their decision to support the latest planning application largely on the fact that the building is now finished. Locals know that even this assertion is wrong. It still isn't finished years later.

Had officers acted earlier, we might not be in the current situation, and when they propose adding conditions, have they forgotten that conditions have not been discharged from the original application?

If the committee takes the officers recommendation, experience suggests to us that the developer will continue to use this strategy with future projects. We urge you to protect the community and refuse permission.

2. Questions posed by the Applicant to the Development Manager during site meeting on 19th April 2021

The height of 2.2m is not correct, you have seen for yourself that it's a combination of lowering the actual ground level 0.9mtr and gaining height of 1.1mtr.

Main principle ridge elevation is correct, and has a 150mm drop down in height as shown. It's only the eaves which is not stepped.

The Chimney, as you have seen is central to the gable, and not offset, this is immaterial.

The porch is built as per original drawings and permission, we originally wanted a Gable porch but this was declined by Gareth, so again unsure what this relates to.

Swimming pool building set back from principle elevation, this is better than setting forward. Sits better on the site.

Stone to pool building to top of windows, this is as discussed with yourself on site during the original construction.

Cladding to swimming pool building Horizontal and not Vertical, completely irrelevant in terms of visual, or planning.

Fencing only temporary until the stone wall is built as requested.

RESPONSE:

Officers note the points raised which are addressed in the Officer's Report. Officers contend, that whilst levels may have been lowered, the mass of the projecting element of the building nearest to the property access has not been built to the approved

dimensions and does not appear as a single storey building which was part of the original design ethos.

The lean to porch reflects what was ultimately approved with the original planning permission.

COMMENTS RECEIVED RE. ITEM 5.6 – PLANNING APPLICATION 20/00919/FUL RETENTION OF AGRICULTURAL ACCESS TRACK AT LAND OF OLD STONE LANE, MATLOCK

1. Councillors Flitter and Purdy and have advised that they have received emails and photographs raising concerns from neighbouring residents who have submitted photographs contained which they advise evidence how incorrect and deceptive the Applicant's (Harron Homes) submitted drawings are (photographs could not be opened)..

Neighbours advise that the Applicant claims that such a substantial 'access track' is required by the farmer. However there has been no representation submitted by either the land owner or tenant (farmer) during the consultation period to support this excessive installation, built "in line with DfT specification for highway works" (Application documents). The true reason for the over-engineered access into the neighbouring field (which is currently within the Development Boundary), built by a house-builder in a field owned by another house-builder, is questionable.

RESPONSE:

Officers have raised concerns in the Officers' Report with regards to the accuracy of the Applicant's submission

2. Further comments from a local resident:

Contrary to Harron Homes' retrospective application, the track is much closer to our property boundary than shown on the application plans, being only 1.7m from our boundary at the southern end of the track, far closer than what Harron Homes themselves deem to be a 'safe' distance from the neighbouring properties

By way of background, the retaining wall to the rear (east) of our garden (adjacent to the land on which the track has been constructed), was never intended to be built, being absent from all development and plot plans. Our garden was originally intended to be an inclined bank with no significant retaining structure required. The retaining wall was hastily built after we had legally exchanged, following a plant vehicle falling from the area of the access track and breaching the rear of our neighbour's plot. We understand that no construction design or detail exists for the retaining wall at our plot, or our neighbours' plots, therefore we are certain that this wall was not designed or built to cater for the additional load of a significant amount of imported earth being emplaced above and behind the wall during the construction of the track.

We would consider whether the reason for the ground levels around the track being so drastically increased from their previous elevation was in part to dispose of excess, unwanted material from the development. However, in doing so this

has not only significantly increased the load behind our retaining wall – for which Harron Homes have no design detail – but also drastically reduces the privacy, and indeed security, of our garden. Walkers regularly utilise the farmers access track to gain entry into the adjacent fields – which are not on a public footpath. Almost daily those walking along the track stop to peer into our garden, sometimes in passing but sometimes by climbing onto or hanging over the fence on our eastern boundary. This would not be possible if the ground level had not been so significantly elevated. We have also had both dogs and children attempt to gain entry into our garden over the wall on our southern boundary, after having followed the track into the farmer's field.

We have in the last month observed contract staff treating the soil embankment between our boundary and the track in question with weedkiller, presumably in preparation for replanting works, however this is suggestive to us that Harron Homes have no intention to undo any of the works that are subject to this application and intend to proceed with their intentions to leave the track and surrounding land as per its current level and construction, unless enforcement action is taken.

We absolutely support the farmer being able to access the fields to the south of the track in question, however we strongly object to Harron Homes' retrospective application, being both inaccurate and unrepresentative of the construction that has been made and with the potential to have significant detriment to neighbouring properties and persons going forward. We would therefore request not only the removal of the structure of the track but also the elevated levels that Harron Homes have created across this field.

3. Further comments from a local resident:

We would like to thank the Planning Officers for the detailed summary of the objection points received, and for their recommendation of Refusal.

Within the recommendation to "*remove the track and reinstate the land prior to the works having taken place*", the applicant must remove the large volume of imported earth (260 tonnes behind our property alone) that has created the artificially raised platform for the access track. The previous contours of the field graduated down to level with the retaining wall; the artificial track height is level with the top of the fence above that retaining wall.

This increased height at close proximity to the neighbouring boundaries causes loss of residential amenity through overbearing, and loss of privacy from the public who will continue to use the raised platform to access the adjacent field, rather than follow the footpath. Moreover, it compromises the structural integrity of the retaining wall (specified to retain only 1.3m height); risking the safety of both users of the public right of way and residents of the adjacent properties. Each of these issues were avoidable had the track been at a lower, more reasonable level and scale.

No calculations or site-specific design drawings were produced prior to the additional loading of earth and materials to construct the track; it was just informally piled-high, ad-hoc.

Within their Planning Statement, Harron recognise the risks of plant falling across the boundary into the houses or damage to the retaining wall or drainage infrastructure. Had Harron properly considered these risks in advance, then designs, structural calculations and communications with the DDDC Planning Authority would have taken place prior to construction, to ensure that their solution sufficiently addressed the risks. Unfortunately, this was not the case.

We hope that Committee members have been able to see the actual height, gradients and scale of the track, either in person or via photograph, to see how the reality differs from the deceptive cross-sectional drawing submitted by the applicant.

The Applicant claims that such a substantial 'access track' is required by the farmer, however, there has been no representation submitted by either the land owner or tenant (farmer) during the consultation period to support this excessive installation, built "in line with DfT specification for highway works" (Application documents).

The track is ostensibly for a single tractor and trailer. The DfT prescribe a lane carrying HGVs and tractors to be 3.25m wide; why, therefore, does the track have to be 5m wide? The track is the same width as the residential roads within the Thornberries development, and is referred to within the Applicant's Planning Statement as a "service road". The true purpose of the over-engineered access into the neighbouring field, built by a housebuilder in a field owned by another housebuilder, is questionable.

RESPONSE:

Officers advise that members note the comments and have no comments to make on the specific points raised.

RESPONSE:

The Officers' Report raises concern with the structural stability of the retaining wall.

3. The Applicant has submitted the following Statement

My name is Andy van Vliet, I am the Planning Manager (North Midlands Region) for Harron Homes, a family owned, medium sized volume house builder. The Planning Committee are being asked to consider the above application on Tuesday 20th April, and I felt it important to provide you with additional information to that provided in the committee report.

The track is to facilitate an existing agricultural right of way at the rear of the Harron Homes newly constructed Thornberries Estate, Bentley Bridge, Matlock. A plan and typical section of the proposals is provided at the end of this letter.

Decision summary

'Private ways' or 'farm tracks' are often developed to support the operation of agricultural uses and they can have permitted development rights. However, in this case Harron Homes inadvertently failed to seek prior approval from the Local Planning Authority as we should have done. This was an error for which we sincerely apologise. The Local Planning Authority requested a retrospective application to formally deal with the issue which Harron Homes complied with. At the outset officers appeared to accept the principle of the development, but did not consider the visual impact of the track as constructed to be acceptable. Officers set out, in an email 4th December:

'The proposal could be acceptable provided the access can be demonstrated to be necessary to sustain agriculture on the holding and that the central part of the access track be excavated and returned to grass, with the two tracks being no more than 500mm wide from beginning to end.'

We discussed the application with officers and informally proposed a number of different design solutions, all of which were rejected. These included:

Dec 2020: Reducing the overall width of the track to 3.8m

Feb 2021: Providing two tracks each 1.3m wide with grass in-between

The officer's guidance then changed in an email of the 30th March which stated *'The fully made section of roadway and dual track beyond, running along the rear of plots 31 – 33 is considered unnecessary and results in unwarranted harm to the local landscape'* (ie the track would not be acceptable in any form).

We subsequently met with officers and agreed that the application should go to the planning committee so that elected members could be fully appraised of the facts and party to the decision.

Principle of development

The farm track is necessary to enable a legal right of access to sustain agricultural operations in the field to the south of the Thornberries housing estate. The track has been designed and constructed so as to be fit for purpose in enabling heavy farm machinery to access the fields across sloping land whilst moving adjacent to, but a safe distance away from, the residential gardens below. A large tractor can be 2.75m wide and trailers vary in width. A wide turning area is required for articulated vehicles. The track has been constructed in a crushed stone material that will blend into the landscape over time as it is used.

The land in question was originally owned by WildGoose Construction, Harron Homes purchased land to enable the housing development and WildGoose retained the field to the east of the site.

A local farmer, Mr Statham, historically crossed the field to access his land to the south of the housing development. He retains a legal right of access to his land for agricultural purposes.

The construction of the development has meant that the farmer is now using a different route to the one originally taken across the fields to access the land to

the south. His access is now through the housing development and then directly south (at the end of Old Stone Lane). The original land sloped steeply down towards these gardens. This has necessitated a safer, engineered, vehicle running surface to be constructed.

The farmer has informed me that he takes large tractors with articulated trailers and large farm machinery into the fields to the south. He also informs me that the conditions across the Wildgoose land are often wet, as you would expect with surface water run-off from the field.

Design of the track

The track was constructed to appropriate standards to ensure the safe passage of tractors/ farm vehicles and trailers, to mitigate the impact of the steep slope, and considering the proximity of the adjacent dwellings/gardens on the low side of the bank.

Our application sought permission for the track as it has been constructed. The track is approximately 4.5-5m wide and constructed of compacted stone. This was a width requested by Mr Statham, although he has subsequently agreed that a reduced width of 3.8m would be serviceable as an agricultural access.

Appropriate drainage has been designed into the scheme including a land drain on the low side of the track.

We engaged in discussions with the Council and provided a number of design revisions. We offered to reduce the overall width of the track and to revise the appearance to create two narrower 'chatter tracks' instead of a single running surface.

During the discussions Council officers set out that they would accept two 500mm wide tracks so as to reduce the visual impact. The track is of a crushed stone material and mud will be tracked over it by farm machinery. Whilst we accept that the track currently appears a little incongruous, over time it will be meld into the landscape and be covered in a natural patina.

We believe that the two 500m width tracks proposed by officers are impractical; they are too narrow for farm machinery to run along as they will obviously have wide wheels and variable axle lengths. The tracks will be hard to see over time and will be damaged as the wheels come off the edge of the track.

We did, however offer to adopt this general approach in our discussions with the Council albeit it we felt that the two tracks should be wider. We proposed to reduce the overall width of the track to 3.8m and to reform the surface to two tracks that were 1.3m wide each. This proposal was rejected by the Council as unnecessary in their view. We do not believe that this decision took proper account of the potential health and safety risks.

Conclusion

In summary, the track is necessary to facilitate safe agricultural access to the fields to the south of the estate. An access way made up of crushed stone, adjacent to

a housing estate, is quite within keeping with the landscape character of the local area and will visually meld in over time.

We believe that the council would be acting unreasonably in refusing the application. Whilst it might not be common practice to approach planning committee members directly, on the advice of our planning and political consultants, we think it necessary in this case as the committee report does not appear to adequately set out the full picture.

Our political consultant, Jonathan Scott of Britology Ltd, is of the view that whatever the decision, local residents are unlikely to be satisfied with the solution. If the grass bank is re-instated not only is there a potential health and safety risk, but there is likely to be mud routinely brought onto the road.

RESPONSE:

Officers have addressed the above matters in the Officers' Report. With regard to the track, Officers suggested narrowing the width of the access, creating twin tracks of 500mm in width and shallowing the gradient of the slope. Several questions were also asked to the applicant for which there was no response. The Applicant chose not to amend the application. The applicant states that the track is necessary to facilitate safe agricultural access to the fields to the south of the estate. Officers considered that if the safety of the access was paramount, that the landowner, applicant and farmer would have designed such into the development proposals through each of the applications received since 2013.

COMMENTS RECEIVED RE. ITEM 5.7 - PLANNING APPLICATION 20/00920/VCOND VARIATION OF CONDITION 14 OF PLANNING PERMISSION 15/00861/FUL TO ALLOW ON SITE ALTERNATIVE HABITAT ENHANCEMENT AT LAND SOUTH OF BENTLY BRIDGE, CHESTERFIELD ROAD, MATLOCK

4. The Applicant has withdrawn this application from determination further to the Agenda being published.

COMMENTS RECEIVED RE. ITEM 5.9 - EXTENSION OF CEMETERY AND ASSOCIATED INFRASTRUCTURE AND LANDSCAPING WORKS AT LAND TO THE NORTH OF STEEPLE ARCH CEMETERY, WIRKSWORTH

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.