05 June 2017

To: All Councillors

As a Member or Substitute of the Planning Committee, please treat this as your summons to attend a meeting on Tuesday 13 June 2017 at 6.00pm in the Council Chamber, Town Hall, Matlock DE4 3NN

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS: The Committee is advised a coach will leave the Town Hall at 12.30pm prompt. A schedule detailing the sites to be visited is attached to the Agenda.

1. APOLOGIES/SUBSTITUTES

Please advise the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence and substitute arrangements.

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Planning Committee – 9 May 2017

3. INTERESTS

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

4. APPLICATIONS FOR DETERMINATION

Please note that for the following items, references to financial, legal and environmental considerations and equal opportunities and disability issues will be embodied within the text of the report, where applicable.
PUBLIC PARTICIPATION

To provide members of the public WHO HAVE GIVEN PRIOR NOTICE (by no later than 12 Noon on the working day prior to the meeting) with the opportunity to express views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed. Details of the Council’s Scheme are reproduced overleaf. To register to speak on-line, please click here www.derbyshiredales.gov.uk/attendameeting. Alternatively email committee@derbyshiredales.gov.uk or telephone 01629 761133.

4.1 APPLICATION NO. 16/00889/FUL (Site Visit) 6 – 13
Alterations to approved storage building (retrospective) at Sunnyside Farm, Whitelea Lane, Tansley.

4.2 APPLICATION NO. 16/00890/FUL (Site Visit) 14 – 23
Use of building for B8 (Storage/Distribution) at Sunnyside Farm, Whitelea Lane, Tansley.

4.3 APPLICATION NO. 16/00772/FUL (Site Visit) 24 – 42
Partial rebuild and alterations of The Maltings to create 4 dwellings, erection of 7 dwellings and 2 apartments and access bridge at The Maltings, Baileys Mill, Lumsdale Road, Matlock.

4.4 APPLICATION NO. 16/00773/LBALT (Site Visit) 43 – 51
Partial rebuild and alterations at The Maltings, Baileys Mill, Lumsdale Road, Matlock.

4.5 APPLICATION NO. 17/00255/FUL (Site Visit) 52 – 57
Reconstruction of lower garden terrace (part retrospective) at 11 New Road, Bolehill.

4.6 APPLICATION NO. 16/00164/OUT (Site Visit) 58 – 72
Residential development for up to 14 dwellings (Outline) at Wirksworth Hall Farm, Wash Green, Wirksworth.

4.7 APPLICATION NO. 17/00088/FUL (Site Visit) 73 – 80
Single two storey extension at Rotherwood House, Dale Road South, Darley Dale.

5. INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS 81 – 91

6. APPEALS PROGRESS REPORT 92 - 117
To consider a status report on appeals made to the Planning Inspectorate.
Members of the Committee
Councillors Garry Purdy (Chairman), Tony Millward BEM (Vice Chairman),
Jason Atkin, Sue Bull, Sue Burfoot, Albert Catt, Tom Donnellly, Graham Elliott, Richard FitzHerbert,
Tony Morley, Lewis Rose, Peter Slack and Joanne Wild

Substitute Members
Martin Burfoot, Phil Chell, Ann Elliott, Helen Froggatt, Chris Furness, Neil Horton, Vicky Massey-Bloodworth, Jean Monks, Joyce Pawley, Mark Salt, Andrew Statham and John Tibenham.

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

a) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised by the Committee Chairman (in consultation) in advance of the meeting. On line information points will make that clear in advance of registration to speak.

b) Anyone wishing to make representations at a meeting must notify the Committee Section before Midday on the working day prior to the relevant meeting. At this time they will be asked to indicate to which item of business their representation relates, whether they are supporting or opposing the proposal and whether they are representing a town or parish council, a local resident or interested party.

c) Those who indicate that they wish to make representations will be advised of the time that they need to arrive at the meeting venue so that the Committee Clerk can organise the representations and explain the procedure.

d) Where more than 2 people are making similar representations, the Committee Administrator will seek to minimise duplication, for instance, by establishing if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.

e) Representations will only be allowed in respect of applications or items which are scheduled for debate at the relevant Committee meeting,

f) Those making representations will be invited to do so in the following order, after the case officer has introduced any new information received following publication of the agenda and immediately before the relevant item of business is discussed. The following time limits will apply:

<table>
<thead>
<tr>
<th>Category</th>
<th>Time Limit</th>
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<tbody>
<tr>
<td>Town and Parish Councils</td>
<td>3 minutes</td>
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<tr>
<td>Objectors</td>
<td>3 minutes</td>
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<tr>
<td>Ward Members</td>
<td>5 minutes</td>
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<tr>
<td>Supporters</td>
<td>3 minutes</td>
</tr>
<tr>
<td>Agent or Applicant</td>
<td>5 minutes</td>
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</table>

g) After the presentation it will be for the Chairman to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers

j) The relevant Committee Chairman shall exercise discretion during the meeting to rule out immediately any comments by participants that are not directed to genuine planning considerations.
SITE VISITS
Members will leave the Town Hall, Matlock at **12.30pm prompt** for the following site visits:

**PLEASE NOTE:** The first site visit will involve a long walk and stout footwear is required.

12.45pm  APPLICATION NO. 16/00889/FUL  6 – 13
SUNNYSIDE FARM, WHITELEA LANE, TANSLEY.
To allow Members to assess the impact of the development on the landscape.

12.45pm  APPLICATION NO. 16/00890/FUL  14 – 23
SUNNYSIDE FARM, WHITELEA LANE, TANSLEY.
To allow Members to view the extent of business operations and assess the impact on highway safety and neighbour amenity.

1.40pm  APPLICATION NO. 16/00772/FUL and 16/00773/LBALT  24 – 42
THE MALTINGS, BAILEYS MILL, LUMSDALE ROAD, MATLOCK.
And
43 - 51
To allow Members to assess the impact of the development on the special historic character and appearance of the listed building and the impact on the setting of the listed buildings, highway matters and neighbours’ amenity.

2.10pm  APPLICATION NO. 17/00255/FUL  52 – 57
11 NEW ROAD, BOLEHILL.
To assess the impact of the development upon the neighbouring resident.

2.25pm  APPLICATION NO. 16/00164/OUT  58 – 72
WIRKSWORTH HALL FARM, WASH GREEN, WIRKSWORTH.
To allow Members to assess the impact of the proposed development of the site on the character and appearance of the Conservation Area and the impact on neighbouring residents.

3.10pm  APPLICATION NO. 17/00088/FUL  73 - 80
ROTERWOOD, DALE ROAD SOUTH, DARLEY DALE.
To Allow Members to view the impact on the amenities of neighbouring residents.

3.30pm  RETURN TO TOWN HALL, MATLOCK.
COMMITTEE SITE MEETING PROCEDURE

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

1. A coach carrying Members of the Committee and a Planning Officer will arrive at the site as close as possible to the given time and Members will alight (weather permitting)

2. A representative of the Town/Parish Council and the applicant (or representative can attend.

3. The Chairman will ascertain who is present and address them to explain the purpose of the meeting and sequence of events.

4. The Planning Officer will give the reason for the site visit and point out site features.

5. Those present will be allowed to point out site features.

6. Those present will be allowed to give factual responses to questions from Members on site features.

7. The site meeting will be made with all those attending remaining together as a single group at all times.

8. The Chairman will terminate the meeting and Members will depart.

9. All persons attending are requested to refrain from smoking during site visits.
<table>
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| MATERIAL PLANNING ISSUES | • Principle of Development  
                          | • Design and Appearance and Impact on the Surroundings |
| RECOMMENDATION     | Approval |
1. **THE SITE AND SURROUNDINGS**

1.1 The application site lies about 300 metres down an unmade farm track on the east side of Whitelea Lane to the north of Tansley. The farmhouse and some associated buildings, including two dwellings, were separated off from the remainder of the agricultural land several years ago. Within the area of agricultural land that was retained by the applicant there is a group of buildings that have acquired planning rights for lawful industrial and storage uses. The older buildings, both single and two storey, provide for a mixture of workshop and office uses, and part of the associated land is used for the open storage of scaffolding equipment.

1.2 In recent times, a modern commercial building has been erected which was approved solely for the purposes of storing scaffolding. This building has not been constructed in accordance with the approved drawings and its retention in a modified form is the subject of this planning application. The building is currently in use for a general B8 storage and distribution use, without permission, and this is also being considered elsewhere on the Agenda (ref: 16/00890/FUL).

2. **DETAILS OF THE APPLICATION**

2.1 This application seeks retrospective permission for the retention of the building as constructed. The originally approved building was proposed to measure 29.9m by 15.6m with an overall height of 6.3m. It was proposed to be constructed with dark green coloured steel cladding on a concrete block plinth. It had two large roller shutter doors on the front and a pedestrian door on the front and on the rear of the building. The building was approved solely for its use as a storage building for scaffolding equipment and vehicles.

2.2 The building as erected is detailed on the submitted drawings to measure 30.4m by 15.2m deep and 6.8m high (Officers measured it at 31.4m by 15m on site) and is constructed with a light grey coloured steel cladding on a concrete block plinth. It has a large roller shutter door, set off-centre and towards the right side facing on the front elevation, which leads to the storage area. There is also a pedestrian access to the west side of the building into the storage area. To the east side, there is a further pedestrian door. Within the building, much of the ground floor is open for storage. There is a ground floor toilet and a
mezzanine floor has been erected which has a small office, toilet and some additional storage space. A window has been inserted to the mezzanine level on the south elevation of the building.

2.3 The applicant considers that the alterations to the approved building are modest in scale and do not materially affect the ability to use it for its original intended purpose and, on this basis, it would not be expedient or reasonable for the District Council to refuse consent for the requested amendments. However, the applicant has advised, if necessary, that he will paint the cladding in an olive green colour.

3. **PLANNING POLICY AND LEGISLATIVE FRAMEWORK**

3.1 Adopted Derbyshire Dales Local Plan (2005)
- SF4 Development in the Countryside
- SF5 Design and Appearance of Development
- EDT7: Extension And Expansion Of Existing Industrial And Business Land And Premises
- EDT8: Design And Appearance Of New Industrial And Business Premises
- EDT15: New Build Industrial And Business Development Outside Of Settlement Frameworks
- NBE8 Landscape Character
- NBE26 Landscape Design in Association with New Development
- TR1 Access Requirements and the Impact of New Development
- TR8 Parking Requirements for New Development

3.2 Government Guidance
- National Planning Policy Framework (March 2012)
- National Planning Practice Guidance.

4. **RELEVANT PLANNING HISTORY**

- 16/00890/FUL Use of Building for B8 Storage/Distribution – to be determined
- 12/00615/FUL Engineering operations comprising alterations to ground levels – Granted
- 09/00198/FUL Erection of agricultural building with stables - Granted
- 08/00750/FUL Erection of storage building for scaffolding equipment – Granted
- 07/00624/FUL Erection of livery stables and associated access and parking and use of land for equestrian purposes – Granted
- 06/00708/FUL Retention of farm access track - Granted
- 06/00275/OUT Erection of storage building (outline) – Granted
- 05/00612/OUT Erection of 3 no. detached dwellings with integral B1 office accommodation and associated alterations to access (outline) – Refused
- 0997/0585 Certificate of lawfulness for existing use – Granted.

5. **CONSULTATION RESPONSES**

- Parish Council

5.1 - object
- 2008 application stated building was to store all scaffolding undercover, to include vehicles
- believe B8 storage includes open air storage
- bearing in mind the location, oppose this category of storage
- think either B1 or B2 are more appropriate
- believe B8 storage would be contrary to the original planning permission
site accessed from a farm track not wide enough to accommodate passing vehicles – not suitable for traffic generated by a scaffolding business and a storage and distribution centre
- location is not suitable for any increase or additional development
- no reference to where the scaffolding operation will be run bearing in mind they need this to be undercover
- substantial increase in daily traffic to include delivery vans (residents advise an articulated truck has delivered to the site) – will have an adverse impact on amenity of residential dwellings in the immediate vicinity
- do not think access to the site from Whitelea Lane is to a highway standard
- question whether there are safe sightlines for emerging vans
- serious concerns with business of this nature in the countryside – neither rural or agricultural
- ownership of the access road is unknown and no agreement in place for its repair or maintenance
- original use of this greenfield site was allowed because the owner lived adjacent to the site which is no longer the case
- drainage to a soakaway – surprised SuDS are not mandatory given the topography of the site and engineering work has made Footpath 1 impassable due to excess water and deep mud
- no details of waste storage
- effect of the building, at this scenic location, will have on the wider landscape and upon environmental issues, particularly surface water drainage, is not acceptable.

Local Highway Authority (Derbyshire County Council)

5.2 - no objection to the physical changes to the building only.

6. REPRESENTATIONS RECEIVED

6.1 Seven letters of representation have been received from five local residents which are summarised as follows:

- did not object to building the store for scaffolding but within one week of being finished it was let out to company selling bike equipment on-line
- since building completed in late 2016 has only been used for warehouse/distribution centre for bicycles/parts
- if the business owner was misled it does not justify the application for change of use
- solicitor/advisor may well have used more due diligence and would not find himself in this invidious position and remedy may lie with civil action
- there are alternative sites on industrial estates such as Brookfield in Tansley and at Bakewell, Ashbourne, Chesterfield and Alfreton
- challenges that all staff cycle to work – cars parked outside would suggest otherwise and log indicates eight occasions in the brief period where staff used vehicles to commute
- to suggest that to tarmac the track would improve highway safety is a nonsense – would allow for increased speeds and danger to footpath users
- conflict with footpath users
- questions the log kept by the business owner
- 6-7 courier vans come up the track each day
- scaffolding business already had has significant amount of traffic using the track
- traffic levels have increased hugely
- impact on resident’s drystone wall slipping into field with increase in traffic
- track in very poor condition in bad weather and gets rutted and rough
- track is taking more of the verge as larger traffic use it with loss of resident’s land
- not suitable for medium and large sized vehicles
• safety issue with awkward turn into and out of the track and off and into Whitelea Lane
• vehicles having to reverse onto Whitelea Lane to give way to vehicles using the lane
  have created highway safety concerns – accident waiting to happen
• needs a proper surface and drainage before it is considered suitable
• also have MVIS signs being towed in and out of the yard
• noise pollution from coming and going of vans
• Parish Council passed the plans on 4/12/08 stating that no impact with extra traffic
  through Tansley – assume a traffic survey wasn’t done because of that statement
• business times of 9am to 5pm has not been adhered and suspect it will not be
• discourteous of the business owner to refer to delivery vehicles going to residents homes.

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:
   1. Principle of Development
   2. Design and Appearance and Impact on the Surroundings
   3. Other matters

   Principle of Development

7.2 The principle of the erection of a building has been approved for use by the scaffolding business. Whilst the current use of the building for storage and distribution of bicycle equipment is the subject of a further planning application on this Agenda (ref: 16/00890/FUL), the application for consideration is for the retention of the building which has not been erected in accordance with the approved drawings.

   Design and Appearance and Impact on the Surroundings

7.3 The differences between the erected and approved building have been set out above. The main area for concern is that the building was designed purposely to serve the scaffolding business and hence the approved scheme had two large roller shutter doors. However, the applicant has advised that the scaffolding business can operate from the building, as constructed, if permission is not granted for its current unauthorised use. If required, it may be possible to insert a further roller shutter door at a later time subject to planning permission. The positions of the pedestrian doors on the end elevations are considered acceptable.

7.4 The main matter of concern to Officers is the light grey colour treatment of the cladding. In addition, a first floor window has been inserted on the south facing elevation which is considered unnecessary for the use of the building and gives a more ‘commercial’ appearance to the building when viewed in the public domain. The simplicity of form of the approved building, and the required dark green colour, was in order to make the building appear more agricultural in nature given its rural context.

7.5 However, these matters can be remedied and the applicant has agreed to paint the building in an olive green colour; this is considered to assimilate the building better into its surroundings. The removal of the aforementioned window would need to be a condition of any planning permission, and is required to present a more ‘agricultural’ looking building on the site when viewed from the public domain. In addition, as the site is in an elevated position above the public footpath, it was, and still is, considered necessary to ensure the embankment is landscaped to soften the building. As such, the conditions with respect to hard and soft landscaping, attached to the original permission, will need to be repeated.
Other matters

7.6 The Local Highway Authority has advised that they have no objection to the changes that have been undertaken to the building. However, it is considered necessary by Officers to repeat the conditions restricting the use of the premises and to require the layout of parking and manoeuvring space required with the original permission.

Conclusion

7.7 Whilst the building is considered to not be as effective in its potential to function as a storage building for scaffolding, it nevertheless has such capability, especially as the applicant has advised that the scaffolding business has downscaled since the original planning permission for the building was granted. It is also considered, with conditions on the colour of the building, the removal of the east facing window and the submission of a landscaping scheme, that the building will better assimilate into its rural surroundings. Given the above, it is recommended that planning permission be granted subject to conditions requiring the works detailed above to be undertaken within a six month period. This will also need to be subject to the conditions attached to the original planning permission.

8. RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. Within a period of 6 months of the date of this permission, the metal sheeting to the elevations shall be replaced or painted in a green colour in accordance with a sample to be submitted to and approved in writing by the Local Planning Authority. The colour shall not be change unless otherwise agreed in writing by the Local Planning Authority.

2. Within a period of 6 months of the date of this permission, the first floor window on the west elevation shall be removed and replaced with metal cladding to match the existing which shall be in the approved a green colour in accordance with a sample to be submitted to and approved in writing by the Local Planning Authority.

3. Within 6 months of the date of this permission a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall show the following details:
   i) the position trees and hedges to be retained and proposed trees, hedges and defined limits of shrubs and grass areas
   ii) the numbers of trees and shrubs in each position with size of stock, species and variety
   iii) the proposed topsoil depths for grass and shrub areas
   iv) types of enclosure (hedges, fences, railings, walls etc)
   v) types of hard surfacing (gravel, paving, tarmac, etc); and
   vi) regraded contours and details of changes in level.

4. All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development, or in accordance with an alternative programme, submitted to and approved in writing with the Local Planning Authority within two months of the date of this permission with the landscaping being provided prior to the end of the next planting season. Any trees or plants, either existing or planted pursuant to the landscaping works which, within a period of five years of the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
5. Notwithstanding the Town and Country Planning (Use Classes) Order 2005, the building hereby approved shall only be used for the purposes of storing equipment and vehicles associated with the scaffolding business and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

6. Before the building is brought into use for the purposes of the scaffolding business, details of the vehicle parking and manoeuvring area, to include its surfacing and layout, shall be submitted to and approved in writing by the Local Planning Authority. The parking and manoeuvring area shall thereafter be retained for the perpetuity of use of the building.

Reasons:
1. To ensure the satisfactory appearance of the development in its rural context to comply with Policies SF4, SF5, EDT7, EDT8, EDT15 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

2. To ensure the satisfactory appearance of the development in its rural context to comply with Policies SF4, SF5, EDT7, EDT8, EDT15 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

3. To safeguard and enhance the amenities of the area to comply with Policies SF4, SF5 and EDT7, EDT8, EDT15, NBE8 and NBE26 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

4. To safeguard and enhance the amenities of the area to comply with Policies SF4, SF5 and EDT7, EDT8, EDT15, NBE8 and NBE26 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

5. In the interests of highway safety as a more intensive use of the site would be likely to lead to highway safety concerns with respect to comings and goings at the access to Whitelea Lane and to comply with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

6. To ensure the provision of adequate parking and manoeuvring space on the site to serve the development to comply Policy TR8 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

NOTES TO APPLICANT:
1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to the colour of the metal cladding.

2. This decision notice relates to the following documents:

Design and Access Statement received on 6th December 2016
Drawing Nos. 1654-01 and 04 received on 6th December 2016
Additional Information from the Applicant received on 16th February and 6th March 2017
Letter from the Business Owner received on 2nd March 2017
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**MATERIAL PLANNING ISSUES**

- Principle of Development and Use
- Highway Safety
- Amenity Issues
- Impact on Business Operation

**RECOMMENDATION**

Refusal
Sunnyside Farm, Whitelea Lane, Tansley
1. **THE SITE AND SURROUNDINGS**

1.1 The application site lies about 300 metres down an unmade farm track on the east side of Whitelea Lane to the north of Tansley. The farmhouse and some associated buildings, including two dwellings, were separated off from the remainder of the agricultural land several years ago. Within the area of agricultural land that was retained by the applicant, there is a group of buildings that have acquired planning rights for lawful industrial and storage uses. The older buildings, both single and two storey, provide for a mixture of workshop and office uses, and part of the associated land is used for the open storage of scaffolding equipment.

1.2 In recent times, a modern commercial building has been erected; this was approved solely for the purposes of storing scaffolding. This building has not been constructed in accordance with the approved drawings and its retention in a modified form is the subject of planning application 16/00889/FUL which is also considered on this Agenda. The building is currently in use for a general B8 storage and distribution use without permission.

2. **DETAILS OF THE APPLICATION**

2.1 This application seeks retrospective permission for the use of the unauthorised building for the purposes of storage and distribution. The occupiers, ‘Always Riding Ltd.’, operate a
business which stores, packs and dispatches cycling accessories. However, such a use is in breach of Condition 6 of planning permission 08/00750/FUL. This states:

Notwithstanding the Town and Country Planning (Use Classes) Order 2005, the building hereby approved shall only be used for the purposes of storing equipment and vehicles associated with the scaffolding business and for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

2.2 The reason for this condition was as follows:

In the interests of highway safety as a more intensive use of the site would be likely to lead to highway safety concerns with respect to comings and goings at the access to Whitelea Lane and to comply with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005).

2.3 The applicant, who is the landlord of the premises, refers to a Certificate of Lawful Use granted for the site on the 4th November 1997. This covers a mixed use for the buildings and the land, (B1, B2 and B8), which includes the land on which the recently constructed building is sited. It is advised that this industrial site has been, and is still used, for all the permitted uses as well as the scaffolding business.

2.4 The applicant advises that the scaffolding business was started in 1998 and over the years it built up to a business employing up to 14 employees at its peak in 2009. The business has HGV's on operator's licence and also uses smaller pick-up trucks. The applicant states that, at that time, the number of vehicles was considerably higher than now. It is advised that the business also generated frequent third party deliveries; there was the employees own transport as well as salesmen, accountants and waste collection vehicles and hired in plant was regularly delivered the site.

2.5 The applicant states that since the recessions over the last ten years, the scaffolding business has downsized which means there has been a reduction in traffic movements for the business and there are no plans to scale up the business again. It is advised that VOSA, now DVSA, audited the premises and they did not consider the access and egress onto Whitelea Lane to be an issue and, therefore, the applicant presumes nothing has changed since then. The applicant states that no traffic incidents involving any of the vehicles have been experienced since his business occupied of the premises in 1983. Therefore, the applicant considers that the Condition placed on the storage building, restricting its use to scaffolding storage only, was irregular. The applicant also considers the historic traffic movements generated to and from this site make the recent comments from the Local Highways Authority unjustified.

2.6 In terms of the use of the building, it is advised by the business owner that the bicycle parts business recently moved up from London and the owner has advised that taking up the building was on good faith and it was only found out after the fact that the premises was restricted in its use, contrary to assurances from the applicant. In terms of their position, the business has four employees who have recently moved up with the business and bought houses in the local area. The business owner advises that they also have five freelancers reliant on the business. There is concern that, if the business has to move premises, nine people will be at risk of losing all or part of their income. It is also considered that there is a dearth of good business units available to rent. In addition, two of the staff cannot drive and all staff cycle to work so they cannot relocate too far from the area.

2.7 It is suggested by the business owner that conditions could be attached to any planning permission whereby the applicant would be required to tarmac the access road to reduce noise and improve drainage and, therein, this would also improve the footpath. It is also suggested that convex mirrors are used to increase visibility.
2.8 The business would be happy to limit the vehicle movements to certain times and advise that 08.00 to 17.00 Monday to Friday would be acceptable. The business would also be open to establishing a delivery schedule to prevent multiple vehicles using the access at the same time. The number of vehicles is advised to average less than one per hour and the applicant has submitted a detailed log of vehicle movements. The owner also states that the business is very stable and is not subject to rapid rises or falls in demand. The business has also made efforts to reduce the impact of their operation by getting suppliers to use only transit-size vehicles for deliveries.

2.9 It is advised by the business owner that if the application is rejected, the business would be forced to appeal the decision as there would be no choice as there is a need to consider the business and staff welfare. It is also advised that it would be a shame if a newly minted contribution to the local economy was to be wiped out because of the administrative shortcomings of the applicant.

2.10 A further suggestion from the applicant is that the storage and distribution business uses the access off Knabhall Lane. In addition, the applicant has asked that, should full planning permission be refused, whether a temporary permission could be granted to allow time for the business to relocate at which point the scaffolding business could use the building.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2005)
SF4 Development in the Countryside
EDT7: Extension And Expansion Of Existing Industrial And Business Land And Premises
EDT15: New Build Industrial And Business Development Outside Of Settlement Frameworks
TR1 Access Requirements and the Impact of New Development
TR8 Parking Requirements for New Development

3.2 Government Guidance
National Planning Policy Framework (March 2012)
National Planning Practice Guidance.

4. RELEVANT PLANNING HISTORY

16/00889/FUL Alterations to approved storage building (retrospective) – to be determined
12/00615/FUL Engineering operations comprising alterations to ground levels – Granted
09/00198/FUL Erection of agricultural building with stables - Granted
08/00750/FUL Erection of storage building for scaffolding equipment – Granted
07/00624/FUL Erection of livery stables and associated access and parking and use of land for equestrian purposes – Granted
06/00708/FUL Retention of farm access track - Granted
06/00275/OUT Erection of storage building (outline) – Granted
05/00612/OUT Erection of 3 no. detached dwellings with integral B1 office accommodation and associated alterations to access (outline) – Refused
0997/0585 Certificate of lawfulness for existing use – Granted.
5. CONSULTATION RESPONSES

Parish Council

5.1 - object
- 2008 application stated building was to store all scaffolding undercover, to include vehicles
- believe B8 storage includes open air storage
- bearing in mind the location, oppose this category of storage
- think either B1 or B2 are more appropriate
- believe B8 storage would be contrary to the original planning permission
- site accessed from a farm track not wide enough to accommodate passing vehicles – not suitable for traffic generated by a scaffolding business and a storage and distribution centre
- location is not suitable for any increase or additional development
- no reference to where the scaffolding operation will be run bearing in mind they need this to be undercover
- substantial increase in daily traffic to include delivery vans (residents advise an articulated truck has delivered to the site) – will have an adverse impact on amenity of residential dwellings in the immediate vicinity
- do not think access to the site from Whitelea Lane is to a highway standard
- question whether there are safe sightlines for emerging vans
- serious concerns with business of this nature in the countryside – neither rural or agricultural
- ownership of the access road is unknown and no agreement in place for its repair or maintenance
- original use of this greenfield site was allowed because the owner lived adjacent to the site which is no longer the case
- drainage to a soakaway – surprised SuDS are not mandatory given the topography of the site and engineering work has made Footpath 1 impassable due to excess water and deep mud
- no details of waste storage
- effect of the building, at this scenic location, will have on the wider landscape and upon environmental issues, particularly surface water drainage, is not acceptable.

Local Highway Authority (Derbyshire County Council)

5.2 - object
- reiterate that the sites access to Whitelea Lane is severely substandard in terms of the available emerging visibility
- the access driveway has a substandard width and the track is deteriorating in terms of its construction, which is a concern as it carries a public right of way
- application building was permitted to house the existing scaffolding business which operated at the site, i.e. to provide storage for the scaffold equipment and, as the building was unlikely to increase the traffic trips to and from the site, there were no objections from a highway safety viewpoint
- current application to store, pack and dispatch cycling equipment has the potential to significantly increase the traffic generation associated with the site
- the scaffolding business is still operating from the site with significant storage areas in the yard
- whilst the applicant has proposed methods to reduce the impact/traffic associated with the proposed business i.e. limit the size of vehicles, employees cycling to work etc, in reality enforcing such conditions would be difficult.
6. REPRESENTATIONS RECEIVED

6.1 Six letters of representation have been received which are summarised as follows:

- did not object to building the store for scaffolding but within one week of being finished it was let out to company selling bike equipment on-line
- since building completed in late 2016 has only been used for warehouse/distribution centre for bicycles/parts
- if the business owner was misled it does not justify the application for change of use
- solicitor/advisor may well have used more due diligence and would not find himself in this invidious position and remedy may lie with civil action
- there are alternative sites on industrial estates such as Brookfield in Tansley and at Bakewell, Ashbourne, Chesterfield and Alfreton
- challenges that all staff cycle to work – cars parked outside would suggest otherwise and log indicates eight occasions in the brief period where staff used vehicles to commute
- to suggest that to tarmac the track would improve highway safety is a nonsense – would allow for increased speeds and danger to footpath users
- conflict with footpath users
- questions the log kept by the business owner
- 6-7 courier vans come up the track each day
- scaffolding business already had has significant amount of traffic using the track
- traffic levels have increased hugely
- impact on resident’s drystone wall slipping into field with increase in traffic
- track in very poor condition in bad weather and gets rutted and rough
- track is taking more of the verge as larger traffic use it with loss of resident’s land
- not suitable for medium and large sized vehicles
- safety issue with awkward turn into and out of the track and off and into Whitelea Lane
- vehicles having to reverse onto Whitelea Lane to give way to vehicles using the lane have created highway safety concerns – accident waiting to happen
- needs a proper surface and drainage before it is considered suitable
- also have MVIS signs being towed in and out of the yard
- noise pollution from coming and going of vans
- Parish Council passed the plans on 4/12/08 stating that no impact with extra traffic through Tansley – assume a traffic survey wasn’t done because of that statement
- business times of 9am to 5pm has not been adhered and suspect it will not be
discourteous of the business owner to refer to delivery vehicles going to residents homes.

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:
1. Principle of Development and Use
2. Highway Safety
3. Amenity Issues
4. Impact on Business Operation

Principle of Development and Use

7.2 Policies EDT7 and EDT15 of the Adopted Local Plan (2005) and government guidance support sustainable business development. However, this has to be in appropriate locations. In this respect, the site is considered to be in an isolated rural location. Nevertheless, it is appreciated that the site has a lawful use for the scaffolding business
and, therefore, this must be taken into consideration in assessing any planning applications for the manner in which the site could be re-used in the future.

7.3 The matter for concern is that the applicant had advised the District Council of his wish to erect a building for the benefit of his scaffolding business operation and, on this basis alone, secured planning permission for the building with a restriction on how it could be used. It appears that, having recently erected the building and let this out to another business, that there was little intention to utilise the building for the approved use.

7.4 In addition, the building has not been erected in accordance with the approved drawings, the design of which was advised by the applicant to be in the form approved in order to allow for the scaffolding vehicles to enter the building through two large doors and for loading/unloading to be undertaken undercover. The building as erected does not reflect well on the original design ethos, with a single large door at one end of the building; it appears more purpose built for the current storage and distribution use. It is also difficult to believe that the building was erected in its unapproved form, and that the current occupiers were capable of taking this up, in such a short time period; this reflects the points made by local residents.

7.5 Nevertheless, the building is in situ and consideration needs to be given as to whether this is acceptable in its modified form, and is being considered separately with planning application 16/00889/FUL elsewhere on this Agenda. This application is solely to consider whether the use being undertaken is acceptable and, given the history of business activity on this site, this hinges on the following matters.

Highway Safety

7.6 The Local Highway Authority has reiterated that the site's access to Whitelea Lane is severely substandard in terms of the available emerging visibility. In addition, the access driveway has a substandard width and the track is deteriorating in terms of its construction, which is a concern as it carries a public right of way. The application building was permitted to house the existing scaffolding business which operated at the site, i.e. to provide storage for the scaffold equipment. As the building was unlikely to increase the traffic trips to and from the site, there were no objections from a highway safety viewpoint.

7.7 However, the Local Highway Authority advises that, from what can be ascertained from the submitted application details, that the current application to store, pack and dispatch cycling equipment has the potential to significantly increase the traffic generation associated with the site. Furthermore, the scaffolding business is still operating from the site with significant storage areas in the yard. Whilst the applicant has proposed methods to reduce the impact/traffic associated with the proposed business (limit the size of vehicles, advising that employees cycle to work, etc.), in reality, enforcing such conditions would be difficult. Therefore, the Local Highway Authority recommends the application is refused on the grounds that the use would be likely to lead to the significant intensification in use of an existing substandard access to Whitelea Lane, where its limited width, does not allow for 2-way traffic. In addition, the emerging visibility is severely restricted due to third party land, thereby leading to potential danger and inconvenience to other highway users.

7.8 The applicant has suggested that the business operates using the access to Knabhall Lane. This was originally an unauthorised access which was allowed but only for the purposes of serving the agricultural holding and agricultural buildings which have been granted planning permission but not erected to date. It is considered that the business operation should not extend into this area, which was a requirement conditioned with planning permission 06/00708/FUL for the retention of the access and with planning permission 07/00624/FUL for the stables and agricultural building which have not been
erected. This was advised by the Local Highway Authority given the constraints to the width of Knabhall Lane.

Amenity Issues
7.9 The potential traffic associated with such a business operation could lead to a significant number of vehicle movements along the access in what would otherwise be a significantly quieter track. It is considered that the unrestricted comings and goings of delivery vehicles associated with the operation of a B8 (storage and distribution) business would result in significant noise disturbance to residents of the properties that face onto the access road.

7.10 The quality and deterioration of the access track surface has been consistently raised as a concern by neighbouring residents who use it as a means of access to their properties. Whilst heavy scaffolding vehicles will undoubtedly have caused some damage to the access, it has to be expected, with the increase in comings and goings by vans and trucks, that such damage will increase.

Impact on Business Operation
7.11 The business owner has submitted a letter which states that there is dearth of suitable business units available in the District. Whilst no evidence has been submitted to demonstrate this to be the case, this does not in itself provide sufficient justification to allow a business use on the application site that raises significant concerns with regard to highway safety and amenity. Should planning permission be refused, Officers consider it reasonable to allow a period of time, of up to six months, to enable the current business owner to look for alternative / more suitable business premises.

Conclusion
7.12 The B8 use which is currently being undertaken is considered an intensification of the use of the site in terms of previous traffic generation. Whilst it is appreciated that there is a scaffolding business on the site, the dynamics of such an operation would have been unlikely to have had the level of comings and goings by comparison with the current use of the building. In addition, the scaffolding business continues to operate from the site, albeit it is advised that this has been scaled down.

7.13 Given the above, the Local Highway Authority raises concerns over highway safety and there is concern that the level of traffic associated with the premises will lead to the potential for significant disturbance to neighbouring residents. As such, it is recommended that retrospective planning permission be refused and that enforcement action be approved to secure the cessation of the use of the premises for its current use.

8. RECOMMENDATION

8.1 That planning permission be refused and enforcement action be approved to cease the current use of the premises for the following reasons:

1. The proposed development, if permitted, would be likely to lead to the significant intensification in use of an existing substandard access to Whitelea Lane, where its limited width does not allow for 2-way traffic and the emerging visibility is severely restricted due to third party land, thereby leading to potential danger and inconvenience to other highway users and interference with the safe and efficient movement of traffic on the adjoining highway. As such, the proposal fails to comply with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

2. The comings and goings that could potentially occur with an unrestricted B8 use of the building would be likely to lead to significant disturbance to the occupiers of dwellings which face onto the access road through the comings and goings of
vehicles along this unmade road. As such, it is considered that the unrestricted use of the premises would fail to comply with Policies SF4 and EDT7 of the Adopted Derbyshire Dales Local Plan (2005) and with Government policy contained in the National Planning Policy Framework.

NOTES TO APPLICANT:

1. The Local Planning Authority considered the merits of the submitted application, and the additional information provided, 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 notice relates to the following documents:

   Design and Access Statement received on 6th December 2016
   Drawing Nos. 1654-01 and 04 received on 6th December 2016
   Vehicle Activity Log received on 12th January 2017
   Additional Information from the Applicant received on 16th February and 6th March 2017
   Letter from the Business Owner received on 2nd March 2017
<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
<th>16/00772/FUL</th>
</tr>
</thead>
<tbody>
<tr>
<td>SITE ADDRESS:</td>
<td>The Maltings, Baileys Mill, Lumsdale Road, Matlock</td>
</tr>
<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>Partial rebuild and alterations of The Maltings to create 4 dwellings, erection of 7 dwellings and 2 apartments and access bridge</td>
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<tr>
<td>CASE OFFICER</td>
<td>Mr. G. A. Griffiths</td>
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<tr>
<td>TOWN</td>
<td>Matlock</td>
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<tr>
<td>APPLICANT</td>
<td>Peak Village Ltd.</td>
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<tr>
<td>AGENT</td>
<td>Montague Architects Ltd</td>
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<tr>
<td>TOWN</td>
<td>Matlock</td>
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<tr>
<td>MEMBER(S)</td>
<td>Cllr. Mrs. D. Botham, Cllr. S. Flitter, Cllr. Mrs. J. Stevens</td>
</tr>
<tr>
<td>DETERMINATION TARGET</td>
<td>09.01.17</td>
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<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>Major Application</td>
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<tr>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>To assess the impact of the development on the setting and special historic character and appearance of listed buildings, highway matters and neighbours’ amenity</td>
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**MATERIAL PLANNING ISSUES**

- Principle of Development
- Design, Character and Appearance and the Impact on the Grade II Listed Building and the Lumsdale Conservation Area
- Affordable Housing
- Housing Mix
- Amenity Issues
- Highway Matters
- Land Drainage and Flood Risk
- Ecological Matters
- Other Matters

**RECOMMENDATION**

Approval
16/00772/FUL

The Maltings, Baileys Mill, Lumsdale Road, Tansley

Derbyshire Dales DC

Date: 01/06/2017

100019785
1. THE SITE AND SURROUNDINGS

1.1 The property is a grade II listed building located within the Lumsdale Conservation Area and within the vicinity of a number of other listed buildings forming the Baileys Mill complex. The Malthouse has been on the District Council's Building at 'Risk Register' since the late 1990s.

1.2 The foreground of the building is a sloping site where there was a former mill pond which has silted/filled up and which has become overgrown. This leads to Bentley Brook, which is aligned with trees and scrub, and beyond is a private road that runs through to Lumsdale. There is an historic weir across the brook.

2. DETAILS OF THE APPLICATION

2.1 The proposal is to convert the listed Maltings building to four dwellings (refer to 16/00773/LBALM) and for the erection of seven dwellings and two apartments and an access bridge. Officers have discussed the proposals with the applicant prior to, and during, the consideration of the application and the initial scheme for conversion has been amended to retain/reinstate existing openings with some limited additions alterations to enable the viable conversion of the premises. In summary, the works are as follows:

- secure and repair the structure of the listed building
- replace the roof retaining any trusses as far as structurally practicable and re-use original slates and introduce reclaimed materials necessary
- repair the lean-to on the front elevation
- replace all windows and doors with timber doors and door and window frames
- renovate the lucum
- insert window/doors into former, blocked up openings
- insert new window openings
- subdivide the building into four dwellings.

The proposed new residential development is to the south of the Maltings on what was originally a mill pond. The proposed development takes the form of an ‘L-shape’ of two-storeys in height with pitched roofs over. This is proposed to comprise two and three bedroomed properties. Officers have

2.2 The development includes the provision of a new, steel bridge across Bentley Brook close to the historic weir feature. It is proposed that the car parking will be provided in a courtyard between the Malthouse and the proposed new build development. A bin store is proposed which has been amended to be located to the front of the site, next to an existing bin store, rather than as two stores initially proposed within the site.

2.3 The applicant has submitted a Design and Access Statement, Heritage Statement and Heritage Impact Statement, and assessment of affordable housing provision, ecological assessments, storm water attenuation details and a Flood Risk Assessment.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2005)
- SF4: Development in the Countryside
- SF5: Design and Appearance of Development
- H4: Housing Development Outside Settlement Framework Boundaries
- H5: Conversion and Re-use of Buildings to Provide Residential Accommodation Outside Settlement Frameworks
- H9: Design and Appearance of New Housing
- H12: Alternative Provision for Affordable Housing Outside Settlement Frameworks
- NBE5: Development Affecting Species Protected by Law or are Nationally Rare
- NBE6: Trees and Woodlands
- NBE7: Features Important in the Landscape
- NBE8: Landscape Character
- NBE16: Development Affecting a Listed Building
- NBE17: Alterations and Extensions to a Listed Building
- NBE18: Conversion and Changes of Use of a Listed Building
- NBE20: Enabling Development
- NBE21: Development Affecting a Conservation Area
- NBE24: Archaeological Sites and Heritage Features
- NBE26 Landscape Design in Association with New Development
- NBE27: Crime Prevention
- TR1: Access Requirements and the Impact of New Development
- TR8: Parking Requirements for New Development

3.2 Deposit Draft Local Plan (2016)
- S1: Presumption in Favour of Sustainable Development
- S2: Sustainable Development Principles
- S3: Settlement Hierarchy (Matlock is a first tier settlement)
- S5: Development in the Countryside
- HC4: Affordable Housing
- HC11: Housing Mix and Type

3.3 Government Guidance
National Planning Policy Framework (March 2012)
3.4 Other
Lumsdale Conservation Area Appraisal.

4. RELEVANT PLANNING HISTORY
The relevant planning history detailed below relates to the application site and Baileys Mill which are fundamentally interlinked in their planning history:

16/00774/LBALT Partial rebuild and alterations – To be determined
14/00824/FUL Timber Bin Store - Granted
08/00889/VCOND Section 73 Application - Variation of Condition 36 of planning permission DDD/1097/0616 to extend period of completion of highway works – Granted
04/12/1050 Construction of access bridge to provide access to residential development – Withdrawn
04/07/0606 Construction of bridge to provide access to residential development – Withdrawn
03/02/0104 Erection of 5 no. dwellinghouses, detached garages and associated car parking/access – Granted
00/12/0793 Alterations to listed building (conversion to residential use) – Granted
1097/0616 Conversion of buildings to 38 flats/houses, construction of 46 flats/houses, car parks, 2 bridges and new access layout – Granted.

5. CONSULTATION RESPONSES

Town Council
5.1 - no objection to conversion
- new dwellings are felt to be too close to the brook and in danger of flooding
- ecological report requires revisiting due to several inaccuracies.

Environment Agency
5.2 - holding objection - raise concern with the lack of assessment of potential water vole habitat and compensatory measures.

Land Drainage Authority (Derbyshire County Council)
5.3 - Flood Risk Assessment (FRA) for this site states that a positive drainage to Bentley Brook may be necessary
- appears the applicant hasn’t undertaken an appropriate ground investigation to support and inform the application
- the application cannot demonstrate the runoff destination hierarchy as described in Document Part H of the Building Regulations 2000
- if infiltration proves to be unsuitable, it is proposed that surface water from the site is attenuated via cellar storage before being discharged into Bentley Brook - although reference is made to location, there are no details regarding maintenance and essential management of the drainage system for the lifetime of the development
- proposed underground tanks would not be considered by the County Council or the Environment Agency to be classed as sustainable drainage features
- the County Council encourages that site surface water drainage is designed to manage surface water as close to the surface as possible, prioritising infiltration as a means of surface water disposal and where possible applying the SuDS management train
- Local Planning Authority should be mindful to obtain information regarding any outfall into the ditches/watercourse outside of the developable zone to be satisfied that it is designed so that it does not result in a surcharge onto any adjacent land or public Highway
recommend conditions.

Local Highway Authority (Derbyshire County Council)
5.4 - no objection to amended drawings subject to conditions (see comments in the Officer Appraisal section of this report)

Historic England
5.5 - advise that the application should be determined in accordance with national and local policy guidance and on the basis of the District Council’s expert conservation advice.

Conservation Advisory Forum
5.6 - disappointed that despite the architectural/archaeological analysis of the building the southern ‘lean-to’ structure is to be demolished/removed - whilst a slightly later addition it has significance as part of the surviving historic fabric of the Maltings building and should be retained
- noted that no structural engineering report had been submitted
- concerned about the introduction of new openings to the historic fabric in that they dilute the historic character of the former maltings in terms of ratio of void to openings and exacerbate domestication to the elevations
- noted that the proposed new openings had standard lintels and cills matching the historic examples - this would confuse the architectural/archaeological reading of the building and introduce bogus/faux elements
- noted that the residential part of the building (former cottage) had a multi-paned sash window and possible small sash windows to the upper mullioned window - the proposed drawings did not depict these surviving window types/pattern and this was considered disrespectful to the special character and appearance of the listed building and that replicas of these window types should be re-instated
- the lucum is an ephemeral but significant part of the building - its proposed treatment as an ‘oriel’ window is considered inappropriate to character and appearance and considered that the lucum should be retained as a corrugated metal clad element (perhaps pierced by a few small openings only)
- support the principle of the conversion and repair of this important listed building (‘at risk’) but had strong reservations that the original submitted scheme had a definite disconnection between the analysis of its special architectural/archaeological character and appearance and what was being proposed in terms of alterations to it
- considered strongly that significant refinements are required in order to safeguard the special qualities and details of this listed building, its fabric and its character
- discussed the proposed new development to the south of the listed building in detail and considered that the layout did not maximise the opportunities of the site in terms of its presence and context within the setting of the listed building
- there was a disconnection between the analysis of the site and the proposed design and layout of the development - this presented itself in a lack of sensitivity to the setting of the listed building and its context
- noted that the layout resulted in a large open space in front of the listed building containing a carpark with inappropriately located bin stores - proposal lacked sensitivity to the setting and context of the listed building
- noted the absence of site sections to indicate/illustrate the level changes/walls etc. within the spaces around the buildings (existing and new)
- considered that the design/appearance of the development was ambiguous with over wide gable widths and a mixture of fenestration detailing which was architecturally and visually disconnected
- concluded that the proposed development should conserve and enhance the setting the listed building and the Conservation Area and felt that the current proposal did not achieve this but considered that this could be remedied via design and detail refinements
- noted the proposed new bridge and considered this acceptable in principle but that it should be of black painted metal construction throughout (no stainless steel or wires).

**Design and Conservation Officer (Derbyshire Dales)**

5.7 - raised initial concerns with the proposals but no objection to the amended scheme – see Issues section of this report.

**Development Control Archaeologist (Derbyshire County Council)**

5.8 - no objection subject to condition
- should be guided by Conservation Officer.

**Derbyshire Wildlife Trust**

5.9 - insufficient information
- no enhancements or compensation has been included to date
- appears only one survey has been undertaken and a minimum of three nocturnal surveys would be required, prior to determination
- when the ecology report is submitted, it should provide sufficient details on bat mitigation such as capture and exclusion, detailed design of the bat loft, post development monitoring, additional information such as timber treatments, roofing felt (breathable roofing membranes should not be used in bat mitigation), materials to be used etc.
- local authorities are now required to request information that demonstrates the maintenance and longevity of a species' Favourable Conservation Status where proposals affect, or are likely to cause an effect on, individual or population status
- the Local Authority must satisfy themselves that the development proposals address potential impacts on the species and demonstrate suitable and adequate mitigation in order to maintain favourable conservation status of common pipistrelle and brown long-eared of bats
- the mitigation strategy (when submitted) must provide sufficient confidence and satisfying these requirements, as well as inclusion for aspects of biodiversity enhancement which have, at present, not been submitted
- the site cannot be legally developed (with respect to bats) in absence of an European Protected Species Licence (EPSL) which can only be granted once planning has been approved for the site to date, it is considered that insufficient information has been submitted, and it is unclear if the proposals can clearly accommodate mitigation on site
- if planning permission must be decided, propose conditions should be attached but do not recommend this approach.

6. **REPRESENTATIONS RECEIVED**

6.1 A total of twelve letters of representation have been received from ten local residents. A summary of the representations is outlined below:

- additional dwellings detrimental to the historic character of the overall Grade II listed Baileys Mill site, of which the Maltings is part, and the Lumsdale Conservation Area
- design and architecture should be more in keeping with the Mill building and houses
- additional properties are too congested, too many in number and too modern in appearance and not sympathetic to the architecture of the original site buildings
- close proximity of the new bridge to the weir detracts from the important connectivity of the source of water power to Baileys Mill
- steel bridge would be completely out of place with existing buildings – existing bridges constructed of natural stone
- angle of bridge not in keeping with the historic nature of the Lumsdale Conservation Area – should be at 90° to, and as such sited further down, Lumsdale Road
- low height above Bentley Brook may cause a build-up of driftwood under the bridge
- steel construction will cause undue noise and disturbance to existing residents
• site access includes part of the garden area to Baileys Mill
• will lose half of the garden to the Mill which has not got a huge amount of gardens
• loss of trees and boundary fence
• impact on wildlife
• site clearance will require the felling of many trees which will damage the natural environment and wildlife
• previous development achieved a good balance between restoring the old mill and surrounding cottages and with new housing – proposed development will change that balance dramatically
• have had bin store constructed so that the bins are no longer on the historic bridge and would be very concerned if this development had any adverse impact on the store or its position
• the properties on site would need a bin store easily accessible by the rubbish collection organisations
• concern that existing sewerage system and pump will not be able to cope and should have its own independent system
• a new bridge would definitely need to be constructed to allow access to the site whether just for the Maltings or the full development
• wish to ensure that there is adequate parking
• would be very unhappy for any proposal to use the existing historic bridge either onto the site during construction or after construction due to potential damage to the structure of the bridge, together with the disturbance to the properties on either side of the access road on to the Bailey's Mill site
• would be a significant increase in traffic along the road especially during construction and the road is not adopted and would deteriorate further with this traffic - will the builder bring the road up to the standard required for adoption by the relevant highways organisation?
• impact on deteriorating road due to extra traffic – applicants have not resurfaced it
• new development will bring increased traffic to both Lumsdale Road and the junctions with the A615 - are there any provisions in the applications for improving these?
• there is one locked gate between Baileys Mill and the new development which would be an inadequate barrier between the two
• the site and the Maltings are currently used as a playground for local children - wonder what security precautions would be in place during the developments
• new development is separate to Baileys Mill, so the name Baileys Mill should be deleted from the location address
• since a Management Company controls the Bailey's Mill site, there needs to be a clear demarcation between the two sites with no access from one to the other except via Lumsdale Road
• Maltings site plan does not concur with the leases for the Mill site/

Matlock Civic Association
• welcome the conversion element
• concerned with the scale of new development and consequent impact of additional cars on the ‘courtyard’ setting of the Mill complex

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:
1. Principle of Development
2. Design, Character and Appearance and the Impact on the Grade II Listed Building and the Lumsdale Conservation Area
3. Affordable Housing
4. Housing Mix
5. Amenity Issues
6. Highway Matters
7. Land Drainage and Flood Risk
8. Ecological Matters
9. Other Matters.

Principle of Development

7.2 When planning permission (ref: 1097/0616) was originally granted in 1998 for the conversion of Baileys Mill, this included the conversion of the Maltings and the development of its associated land. This latter part of the development did not proceed, which appears to have been related to civil/landownership matters with regard to how the site would be accessed to the east of the site. It was also considered unacceptable to access the site via the existing access at the rear (north) of Baileys Mill. Had the landownership matters not existed, it would be likely that the Maltings would have been redeveloped at the time this occurred with Baileys Mill.

7.3 Therefore, whilst the site is outside of the Settlement Framework boundary for Matlock, it has an extant permission for development and it is only the means of access which has prevented this to date. In addition, it is also a previously developed site in reasonable proximity to the market town and the proposed development would also serve to safeguard the Maltings which is on the District Council’s Buildings at Risk Register. On this basis, it is considered that the development of the site is acceptable in principle in the context of existing and emerging Local Plan policy and with government guidance.

Design, Character and Appearance and the Impact on the Grade II Listed Building and the Lumsdale Conservation Area

7.4 The applicant’s Heritage Assessment includes a Heritage Impact Statement. This acknowledges a ‘degree of visual impact on the setting of the maltings and on other elements of the mill complex’. However, this is justified by the fact that the historic setting has ‘already been necessarily compromised by the necessary conversion of those buildings…..in the past which ensured their futures’. ‘In addition, the mill pond, which would have been a feature in the setting of these buildings, has long been infilled’. The actual potential impact of the new development to the south of the Maltings has not been addressed in detail.

7.5 During the consideration of the application, Officers have discussed amendments to the scheme which have been undertaken. These have included alterations to the conversion proposals for the Malthouse, to be more sympathetic to its conversion and use of existing openings. Some concessions have been made to alter/provide new openings but these are modest in nature and are considered to safeguard the character and appearance of this historic building.

7.6 The completed character and appearance of the open space is considered a fundamental element of the scheme. Whist it is envisaged for car parking, it is considered that this should be of a design and surface treatment which has a unified ‘yard’ appearance, rather than looking like a ubiquitous carpark. The car park has been amended to reflect the slope of the site rather than introducing significant retaining walls to the front of the Maltings, as initially proposed, to create a level parking area; this was considered to harm the setting of the Maltings by placing such a large raised section to its foreground. In terms of layout and surfacing, this will require sensitive and careful design and selection of appropriate and sympathetic surfacing materials albeit this can be addressed by a condition.

7.7 In terms of the new build development, the layout proposed is relatively simple in form and has an association with the general geometric layout of the mill complex as a whole. In essence, the layout creates an open space or ‘yard’ in front of the listed Maltings building. The land has a gentle slope from north to south and the proposed scale of the new
buildings, in comparison with the Maltings and the mill buildings to the west, are of lesser height and will allow the historic mill buildings/Maltings to be read as the pre-dominant structures of the site.

7.8 The design of the new build dwellinghouses has been amended from the initial scheme and it is considered to now provide a more quasi-industrial appearance. This will also be reliant upon the materials and architectural detailing to ensure this character is presented. Original details such as lintels, cills and quoins have now been omitted. Rooflights have also be omitted as they were considered to be domestic in type and scale. It is important, in terms of materials and details, that the new development is subservient to the adjacent listed buildings and can be clearly read and understood as new development within this context. In essence, the new development is considered to be reasonably complimentary to the setting and context of the adjacent listed buildings and seeks to safeguard the industrial character and appearance of this enclave.

7.9 The south side of the houses are proposed to have small enclosed yards with stone walls of approximately 0.9m in height. The yard areas are now proposed to be sub-divided by high stone walls, to at least 1.6m in height, for privacy. However, this approach is considered unacceptable as it will fail to conceal any domestic paraphernalia. As such, there will need to be further consideration of how the boundary treatment to the yard can be undertaken to provide privacy, screening and to be in keeping with the development; this will need to be subject to a condition of any planning permission.

7.10 The initial inclusion of two bin stores, in the location and context of the Maltings and the proposed dwellinghouses, was considered to be inappropriate and harmful to this open space and to the setting of the listed building. The storage of wheeled bins is now proposed to be positioned adjacent to the existing facility serving Baileys Mill. Whilst such a siting is not ideal, it is considered the preferable solution in terms of how such a facility relates to the listed buildings and allows for accessibility for refuse collection.

7.11 The original access was proposed to the eastern side of the site but, due to land ownership issues, this can now only be gained from the west of the site. In this respect, a bridge is proposed close to the weir to Bentley Brook. Whilst this introduces some harm to this feature, this has to be balanced with the need to develop the site in order to safeguard the Maltings which is a ‘Building at Risk.’ Given this situation, the proposed bridge is considered acceptable in principle. Its slightly curved shape (‘I’ section metal girders) is also considered to be appropriate. However, the side railings will need to be of dark painted, vertical metal to a simple and plain design which will need to be secured by condition.

7.12 Given the above, whilst the historic setting of the Maltings contained a mill pond, planning permission has been granted to redevelop this site, and the wider Baileys Mill site, and this extant permission must be given some weight in the assessment of the current proposal.

7.13 There would be some harm to the setting of the listed building, albeit less than substantial harm, as a result of the proposed new build development, however, this would be outweighed by the public benefit to be gained in safeguarding the listed building.

**Affordable Housing**

7.14 The applicant has submitted an assessment of the development with regard to affordable housing provision. In 1998 Peakstone Heritage Limited obtained planning approval for the redevelopment of Baileys Mill to residential use. This included the main Mill and associated outbuildings, St. Andrew’s House and the Old Maltings set to the east. As part of the approval a number of new dwellings were also included as enabling development to assist in the costs of repairing and converting the Historic Listed Buildings.
7.15 The developer at that time proceeded to construct and sell the new build units immediately prior to going into receivership. Consequently monies that should have assisted in the repair and conversion of the listed buildings were lost. Peak Village Limited acquired the site off the Receivers and proceeded to carry out the conversion work on the Mills complex and St. Andrews House to a high standard without the benefit of any enabling funds.

7.16 The land to the east, which includes the Maltings, constituted phase II of the original approval within which there were 12 new build dwellings plus The Maltings. The current scheme only has 9 new build units but they form an important factor in helping the scheme to be viable as the cost of repairing and converting the listed building will be considerable. There are other factors that make the new development expensive, apart from the conversion costs, one of which is the formation of a new access bridge over Bentley Brook to serve the site and avoiding the need to go through the Phase I conversions.

7.17 All of the above factors combine to increase the development costs to such an extent that the applicant considers, if the District Council’s affordable housing criteria were applied, the development would not be a viable proposition. However, whilst the applicant considers that the new build element of the scheme should not be subject to the affordable housing policy, it is also advised that the new dwellings have been designed as compact, two and three bedroom family homes for which market values would dictate fairly modest costs.

7.18 Therefore, whilst the applicant acknowledges the sentiments of the Council’s affordable housing policy, they consider that in this situation there are a number of extenuating circumstances which need to be overcome if the development is to progress. The overriding factor in this case is to appreciate that the repair and conversion of the listed building needs to be financially buttressed by some new development and not to be encumbered by an affordable housing requirement and therefore request that in this situation the requirements are relaxed.

7.19 Given the above, there is clearly a protracted history to the development of the wider site as set out in the information submitted by the applicants and there are constraints on the level of profit that may be yielded from developing the site. There will be additional costs associated with securing the future of the grade II listed building and the building of the access bridge into the site. The nature of the development, having a desirable size of residential units to meet the housing mix sought by the District Council on residential development sites is a benefit of the application proposals. In addition, government guidance advises that sites that deliver more than 10 dwellings can only be considered for affordable housing provision; the thirteen dwellings proposed are close to this threshold.

7.20 Therefore, whilst the applicant has not submitted a financial viability appraisal for the development, given the constraints relating to the development of this site, it is considered that a reasonable case has been made by the applicant in order to not deliver affordable housing on site or provide a financial contribution towards off-site affordable housing provision. The extent of enabling development is considered reasonably necessary and to seek to yield more value from the site, with a more intensive development, in order to achieve the provision/funding of affordable housing, is not considered appropriate in this context. It is considered that the balance struck between new build development, and the safeguarding of the setting and the future of the listed building, is acceptable.

Housing Mix

7.21 The Policy HC11 of the Deposit Draft Local Plan (2016) requires a detailed mix of housing to try to ensure that new development meets the needs of the District. The development proposes a mix of two and three bedderoomed properties which are those most sought in the District and the development is considered acceptable in this regard.
Amenity Issues

7.22 There are existing residents in Baileys Mill who will overlook the site but it is considered that the development will not significantly harm the light, outlook or privacy of the existing residents. There may be some disturbance with comings and goings to the rear of Baileys Mill, but it was it was always the intention to develop the Maltings and it is considered that the level of nuisance caused by relocating the access is not so significant to justify refusal of planning permission.

Highway Issues

7.23 Planning permission has historically been granted for the redevelopment of the site and therefore, whilst local residents have raised concern with additional traffic, this has already been assessed with the original planning permission to develop the whole Baileys Mill site. The matters for consideration are therefore considered to be the adequacy of the proposed bridge, visibility splays, pedestrian access, parking provision and refuse collection.

7.24 The number of parking spaces within the site has been increased so each residential unit is now being provided with two parking spaces. Whilst no specific details have been submitted with regards to the bridge details/structural calculations, it is presumed this can be agreed at a later stage prior to any works commencing on site as this access route is the only route to and from the site for vehicles. The Local Highway Authority is aware that the recommended emerging visibility sightlines of 2.4m x 33m may not be possible to be controlled due to the limited frontage the applicant may be in control of. However, as Lumsdale Road is an un-adopted road, which is not subjected to high volumes of traffic, an objection on lack of visibility onto Lumsdale Road is unlikely to be sustainable.

7.25 The proposed refuse collection point has now been shown to be within the red outline boundary. However, the applicant does not control land to the front of the existing bin collection point so a continuous footway linking the site into the existing footway to the south west cannot be provided. Again, an objection based on this could not be sustained and it is considered safe for future occupants to walk out of the proposed access and cross Lumsdale Road to the footway on the opposite side as there is good visibility on this section of Lumsdale Road due to its straight alignment.

7.26 One modification the Local Highway Authority does still recommend, however, is to increase the width of the access for the initial 5m to allow for 2-way traffic; especially as this access is also acting as the pedestrian access to the site. The applicant controls sufficient land to accommodate this. It is therefore recommended the access has a minimum width of 5m for the initial 5m; the Local Highway Authority is happy for this access amendment to be a planning condition instead of asking for amended drawings at this stage.

7.27 Therefore, the Local Highway Authority has no objections to the application subject to condition with respect to a temporary access for construction purposes being provided, space being provided within the site for storage of plant and materials, etc., a new vehicular access being formed Lumsdale Road which has a minimum width of 5m for the initial 5m and provided with a 2.4m parallel visibility sightline across the entire frontage of the development controlled by the applicant fronting Lumsdale Road, the provision on 26 car parking spaces and the proposed bin storage area.

Land Drainage and Flood Risk

7.28 The Land Drainage Authority (DCC) has advised that the Flood Risk Assessment (FRA) for this site states that a positive drainage to Bentley Brook may be necessary but it appears the applicant hasn’t undertaken an appropriate ground investigation to support and inform the application. The application cannot demonstrate the runoff destination hierarchy as described in Document Part H of the Building Regulations 2000.
7.29 It is advised that if infiltration proves to be unsuitable, that surface water from the site be attenuated via cellar storage before being discharged into Bentley Brook (although reference is made to location and there are no details regarding maintenance and essential management of the drainage system for the lifetime of the development). Nevertheless, the proposed underground tanks would not be considered by the Land Drainage Authority or the Environment Agency to be classed as sustainable drainage features.

7.30 The Land Drainage Authority encourages site surface water drainage to be designed to manage surface water as close to the surface as possible, prioritising infiltration as a means of surface water disposal and where possible applying the SuDS management train. In this respect, it is advised that the Local Planning Authority should be mindful to obtain information regarding any outfall into the ditches/watercourse outside of the developable zone and to be satisfied that it is designed so that it does not result in a surcharge onto any adjacent land or public highway. In this respect, it is recommended that conditions are attached to any grant of planning permission.

Ecological Matters
7.31 The applicant has submitted an ecological appraisal and a bat survey. This has been considered by Derbyshire Wildlife Trust (DWT) and it is advised that there has been inadequate survey work for bats and, to date, no enhancements or compensation have been included. At present, it appears only one survey has been undertaken and a minimum of three nocturnal surveys would be required prior to determination.

7.32 DWT advises that local authorities are now required to request information that demonstrates the maintenance and longevity of a species. However, at the time of writing this Officers Report, the applicant’s ecologist had not been able to complete all the necessary bat assessment, although it is expected that these findings and recommendations will be reported to the Planning Committee meeting along with the further comments of DWT.

7.33 The applicant has also submitted a survey of Bentley Brook at the request of the Environment Agency, specifically with regard to Water Voles. The report does not appear to identify and particular matters of concern and it is expected that the comments of the Environment Agency will be able to be reported to the Planning Committee meeting and further conditions attached as may be necessary.

Other Matters
7.34 There have been concerns raised with regard to the ownership rights of existing residents of Baileys Mill being infringed by the applicant. However, this is a civil matter which can have little bearing on the consideration of the planning application.

Conclusion
7.35 When all of the above matters are taken into consideration and having regard to the extant permission that exists, it is considered that the extent and nature of new development is acceptable and reasonably necessary to secure the future of the listed building. This significant public benefit would outweigh the less than substantial harm to its setting and it is recommended that the application be approved subject to conditions on this basis.

8. RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. Condition ST02a: Time Limit on Full
2. This permission relates to the original submitted plans and documents except as amended by the revised plans numbered 1564-2016-10B received on 26th January 2016, 1524 (site location plan) received on 2nd February 2016, 1564-2015-01C, 142015-04C, 1564-2016-13 and 1564-2016-14 received on the 20th February 2017 and 1564-2015-02B received on 18th April 2017 and except insofar as may otherwise be required by other conditions to which this permission is subject.

3. This permission allows for the conversion of the existing building and does not authorise any demolition or rebuilding of any structures beyond the scope of this permission. Prior to the commencement of development, a scheme shall be submitted to the Local Planning Authority outlining the measures to be taken to secure the safety and stability of the listed building prior to and during the course of development.

4. Prior to the commencement of development, a structural engineer’s report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include a full and comprehensive assessment of all current structural defects together with proposed recommendations for mitigation works and/or structural repairs. The development shall be undertaken in accordance with the recommendations outlined unless otherwise agreed in writing by the Local Planning Authority.

5. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions and:

   (i) the programme and methodology of site investigation and recording;
   (ii) the programme for post investigation assessment;
   (iii) provision to be made for analysis of the site investigation and recording;
   (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
   (v) provision to be made for archive deposition of the analysis and records of the site investigation; and
   (vi) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

   No development shall take place other than in accordance with the archaeological Written Scheme of Investigation. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

6. In the event of any additional stone slates being required to repair the roof of the listed building, a sample shall be submitted to and approved in writing by the Local Planning Authority and the repairs shall thereafter be undertaken with slates matching the approved sample.

7. All joinery to the listed building shall be of timber construction which shall be given a painted finish within 28 days of being installed in a colour to be first agreed by the Local Planning Authority.

8. Prior to the commencement of development, a methodology for the formation of all new openings to the listed building, including structural lintels, heads, cills and jambs,
shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

9. Prior to the commencement of development, construction details of all windows and doors (fully dimensioned vertical and horizontal sections at a scale of 1:5 and mouldings at a scale of 1:1) to include their design and pattern, and co-ordination to the building elevations, shall be submitted to, and approved in writing by, the Local Planning Authority. The window and doors shall then be installed in accordance with the approved details and so retained.

10. Prior to the commencement of development, full construction details of the cill, glazed clerestory and metal roof covering, and their associated abutments, shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

11. Prior to the commencement of development, a methodology for the reconstruction of the lucum, to include samples of the materials/details for its roof, cladding, abutments and finish shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

12. Prior to the commencement of development, a methodology for the construction of the lightwell to the rear of the listed building shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

13. In the event that the paintwork is removed from the exterior of the building, a methodology shall be first submitted to and approved in writing by the Local Planning Authority and the works shall thereafter be undertaken with the approved details.

14. Notwithstanding the submitted information, and prior to the commencement of construction works to create the new dwellings, the following details shall be submitted to and agreed in writing by the Local Planning Authority:

- details, and samples/sample panel where necessary, of all external facing and roofing materials (including geological source for stonework, construction detail, mortar detail and finish);
- detailed drawings (fully dimensioned vertical and horizontal sections at a scale of 1:5 and mouldings at a scale of 1:1) of all windows and doors, their finish and reveal in relation to the panelling and the I section; and
- details of all pipework, guttering, vents, meter boxes, etc..

The development shall thereafter be undertaken in accordance with the approved details.

15. Notwithstanding the details on the approved drawings, no development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

a) indications of all existing trees, hedgerows and other vegetation on the land;

b) all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;

c) measures for the protection of retained vegetation during the course of development;
d) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;

e) all means of enclosure and the relationship with existing landscape features to be demonstrated in detail on the layout plan;

f) details of all hard surfacing materials;

g) dwarf walls and steps to the car park;

h) minor artefacts and structures (i.e. lighting, etc); and

i) future management of retained and proposed landscaping.

The development shall thereafter be undertaken in accordance with the approved details.

16. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development, or in accordance with a programme to be agreed in writing with the Local Planning Authority.

17. Notwithstanding the details on the approved drawings, the boundary treatment to the dwelling units shall be modified in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The boundary treatments shall thereafter be provided in accordance with the approved details and retained as such for the life of the development.

18. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra Non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

19. No development shall take place until a detailed assessment has been provided to and approved by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in the Approved Document Part H of the Building Regulations 2000. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

   a. into the ground (infiltration)
   b. to a surface water body
   c. to a surface water sewer, highway drain or another drainage system
   d. to a combined sewer.

20. No development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.
21. Before any other operations are commenced, excluding construction of the temporary access referred to in Condition 20 above, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

22. Before any other operations are commenced (excluding Conditions 20 and 21 above) a new vehicular access shall be formed to Lumsdale Road which has a minimum width of 5m for the initial 5m and provided with a 2.4m parallel visibility sightline across the entire frontage of the development controlled by the applicant fronting Lumsdale Road, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

23. Notwithstanding the details on the approved drawings, before the development commences, full structural details of the access bridge and its abutments, balustrade and deck shall be submitted to and approved in writing by the Local Planning Authority. The bridge shall be provided in full accordance with the approved details.

24. No part of the development shall be occupied until the proposed bin storage area, which shall match that of the existing bin store area in terms of its construction, materials and colour treatment, has been provided in accordance with drawing No 1564-2015-01C. This bin store facility shall be retained for its designated purposes at all times thereafter.

25. No residential unit shall be occupied until space has been laid out within the site in accordance with drawing No 1564-2015-01C for 26 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. These facilities shall thereafter be retained for use at all times.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no extensions, external alterations, additions or additional buildings shall be provided to the new dwellings, and no means of enclosure erected, unless as authorised by this permission, without the prior written approval of the Local Planning Authority upon an application submitted to it.

Additional conditions as may be required by Derbyshire Wildlife Trust and the Environment Agency.

Reasons:

1. Reason ST02a

2. To define the permission for the avoidance of doubt.

3. To safeguard the future of the listed building in accordance with Government policy contained in the National Planning Policy Framework.
4. In the interests of establishing the condition of the listed building and to preserve its character and appearance in accordance with Government guidance contained in the National Planning Policy Framework.

5. In order to ensure appropriate investigation and recording of the potential underground archaeology in accordance with Policy NBE24 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.

6-13. In the interests of preserving the character and appearance of the listed building and to ensure the satisfactory appearance of the development to comply with Policies SF5, H5, H9, NBE16, NBE17, NBE18 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

14. To ensure the satisfactory appearance of the development to comply with Policies SF5, H5, H9, NBE16 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

15. To ensure appropriate landscaping of the site in accordance with Policies SF5, H5, H9, NBE16, NBE17, NBE21 and NBE26 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

16. To ensure the appropriate maintenance of the landscaping of the site in accordance with Policies SF5, H5, H9, NBE16, NBE17, NBE21 and NBE26 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.

17. To ensure the satisfactory appearance of the development to comply with Policies SF5, H5, H9, NBE16, NBE21 and NBE26 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.

18. To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority in advance of full planning consent being granted and to comply with Government guidance contained within the National Planning Policy Framework.

19. To ensure that the surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options to comply with Government guidance contained within the National Planning Policy Framework.

20-24. In the interests of highway safety in accordance with Policy TR1 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.

25. To ensure the provision of adequate parking facilities in the interests of highway safety in accordance with Policy TR8 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.

26. To safeguard the setting of the listed building and the character and appearance of the development to comply with Policies SF5, H5, H9, NBE16, NBE17, NBE21 and NBE26 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.
Additional reasons for conditions as may be required by Derbyshire Wildlife Trust and the Environment Agency.

NOTES TO APPLICANT:

1. The Local Planning Authority prior to the submission of the application, and during its consideration, has engaged in a positive and proactive dialogue with the applicant which resulted amendments to the scheme that overcame initial concerns relating to protecting the historic features of the listed building, the design of the proposed new build dwellings, the layout and gradient of the car park and the positioning of the refuse storage.

2. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council’s Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

3. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed.

4. With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 21 of the General Development Procedure Order. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

5. This decision notice relates to the following documents:
   Design and Access Statement received on 30th November 2016
   Heritage Statement and Heritage Impact Assessment received on 30th November 2016
   Flood Risk Assessment received on 30th November 2016
   Storm Water Attenuation Details received on 25th January 2017
   Ecological Assessment received on 8th December 2017
   Survey for Hibernating Bats received on 27th March 2017
   Survey of Bentley Brook received on 27th March 2017
   Amended Site Location Plan 1:1250 received on 2nd February 2017
   Amended Drawing No. 1564-2016-10 received on 26th January 2016
   Amended Drawing No. 1564-2015-01C, 1564-2015-04C, 1564-2016-13 and 1564-2016-14 received 20th February 2017
   Amended Drawing No. 1564-2015-02B received on 18th April 2017
   Affordable Housing Statement received on 23rd May 2017.
### APPLICATION NUMBER
16/00773/LBALT

### SITE ADDRESS:
The Maltings, Baileys Mill, Lumsdale Road, Matlock

### DESCRIPTION OF DEVELOPMENT
Partial rebuild and alterations

<table>
<thead>
<tr>
<th>CASE OFFICER</th>
<th>Mr. G. A. Griffiths</th>
<th>APPLICANT</th>
<th>Peak Village Ltd.</th>
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<tbody>
<tr>
<td>TOWN</td>
<td>Matlock</td>
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<td>WARD MEMBER(S)</td>
<td>Cllr. Mrs. D. Botham</td>
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<td>Cllr. S. Flitter</td>
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<td>Cllr. Mrs. J. Stevens</td>
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<td>DETERMINATION TARGET</td>
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### REASON FOR DETERMINATION BY COMMITTEE
Related to a Major Application

### REASON FOR SITE VISIT (IF APPLICABLE)
To assess the impact of the works on the special historic character and appearance of listed building

### MATERIAL PLANNING ISSUES
- The impact on the special historic character and appearance of the Grade II Listed Building

### RECOMMENDATION
Approval
16/00773/LBALT

The Maltings, Baileys Mill, Lumsdale Road, Matlock

Derbyshire Dales DC

Date: 05/06/2017

100019785
1. **THE SITE AND SURROUNDS**

1.1 The property is a grade II listed building located within the Lumsdale Conservation Area and within the vicinity of a number of other listed buildings forming the Baileys Mill complex. The Malthouse has been on the District Council’s Building at ‘Risk Register’ since the late 1990s.

1.2 The foreground of the building is a sloping site where there was a former mill pond which has silted/filled up and which has become overgrown. This leads to Bentley Brook, which is aligned with trees and scrub, and beyond is a private road that runs through to Lumsdale. There is an historic weir across the brook.

2. **DETAILS OF THE APPLICATION**

2.1 The proposal seeks listed building consent to convert the Maltings building to four dwellings. This also forms part of a planning application which also includes the erection of seven dwellings and two apartments and an access bridge (refer to 16/00772/FUL being considered elsewhere on this Agenda).

2.2 Along with the planning application drawings, the applicant has submitted a Design and Access Statement and Heritage Statement and Heritage Impact Statement. Officers have discussed the proposals with the applicant prior to, and during, the consideration of the application and the initial scheme for conversion has been amended to retain/reinstate existing openings with some limited additions alterations to enable the viable conversion of the premises. In summary, the works are as follows:

- secure and repair the structure of the listed building
- replace the roof retaining any trusses as far as structurally practicable and re-use original slates and introduce reclaimed materials necessary
- repair the lean-to on the front elevation
- replace all windows and doors with timber doors and door and window frames
- renovate the lucum
- insert window/doors into former, blocked up openings
- insert new window openings
- subdivide the building into four dwellings.
3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Government Guidance
National Planning Policy Framework (March 2012)
National Planning Practice Guidance

4. RELEVANT PLANNING HISTORY
The relevant planning history detailed below relates to the application site and Baileys Mill which are fundamentally interlinked in their planning history:

16/00772/FUL Partial rebuild and alterations of The Maltings to create 4 dwellings, erection of 7 dwellings and 2 apartments and access bridge – To be determined
00/12/0793 Alterations to listed building (conversion to residential use) – Granted
1097/0616 Conversion of buildings to 38 flats/houses, construction of 46 flats/houses, car parks, 2 bridges & new access layout - Granted

5. CONSULTATION RESPONSES

Town Council
5.1 - no objection to conversion.

Historic England
5.5 - advise that the application should be determined in accordance with national and local policy guidance and on the basis of the District Council’s expert conservation advice.

Conservation Advisory Forum
5.6 - disappointed that despite the architectural/archaeological analysis of the building the southern ‘lean-to’ structure is to be demolished/removed - whilst a slightly later addition it has significance as part of the surviving historic fabric of the Maltings building and should be retained
- noted that no structural engineering report had been submitted
- concerned about the introduction of new openings to the historic fabric in that they dilute the historic character of the former maltings in terms of ratio of void to openings and exacerbate domestication to the elevations
- noted that the proposed new openings had standard lintels and cills matching the historic examples - this would confuse the architectural/archaeological reading of the building and introduce bogus/faux elements
- noted that the residential part of the building (former cottage) had a multi-paned sash window and possible small sash windows to the upper mullioned window - the proposed drawings did not depict these surviving window types/pattern and this was considered disrespectful to the special character and appearance of the listed building and that replicas of these window types should be re-instated
- the lucum is an ephemeral but significant part of the building - its proposed treatment as an ‘oriel’ window is considered inappropriate to character and appearance and considered that the lucum should be retained as a corrugated metal clad element (perhaps pierced by a few small openings only)
- support the principle of the conversion and repair of this important listed building (‘at risk’) but had strong reservations that the original submitted scheme had a definite disconnection between the analysis of its special architectural/archaeological character and appearance and what was being proposed in terms of alterations to it
- considered strongly that significant refinements are required in order to safeguard the special qualities and details of this listed building, its fabric and its character
Design and Conservation Officer (Derbyshire Dales)
5.7 - raised initial concerns with the proposals but no objection to the amended scheme – see Issues section of this report.

Development Control Archaeologist (Derbyshire County Council)
5.8 - no objection subject to condition
- should be guided by Conservation Officer.

6. REPRESENTATIONS RECEIVED

6.1 A total of eight letters of representation have been received from nine local residents. The comments relate largely to the planning application 16/00772/FUL but are nevertheless set out as follows:

- additional dwellings detrimental to the historic character of the overall Grade II listed Baileys Mill site, of which the Maltings is part, and the Lumsdale Conservation Area
- design and architecture should be more in keeping with the Mill building and houses
- additional properties are too congested, too many in number and too modern in appearance and not sympathetic to the architecture of the original site buildings
- close proximity of the new bridge to the weir detracts from the important connectivity of the source of water power to Baileys Mill
- steel bridge would be completely out of place with existing buildings – existing bridges constructed of natural stone
- angle of bridge not in keeping with the historic nature of the Lumsdale Conservation Area – should be at 90° to, and as such sited further down, Lumsdale Road
- low height above Bentley Brook may cause a build-up of driftwood under the bridge
- steel construction will cause undue noise and disturbance to existing residents
- site access includes part of the garden area to Baileys Mill
- will lose half of the garden to the Mill which has not got a huge amount of gardens
- loss of trees and boundary fence
- impact on wildlife
- site clearance will require the felling of many trees which will damage the natural environment and wildlife
- previous development achieved a good balance between restoring the old mill and surrounding cottages and with new housing – proposed development will change that balance dramatically
- have had bin store constructed so that the bins are no longer on the historic bridge and would be very concerned if this development had any adverse impact on the store or its position
- the properties on site would need a bin store easily accessible by the rubbish collection organisations
- concern that existing sewerage system and pump will not be able to cope and should have its own independent system
- a new bridge would definitely need to be constructed to allow access to the site whether just for the Maltings or the full development
- wish to ensure that there is adequate parking
- would be very unhappy for any proposal to use the existing historic bridge either onto the site during construction or after construction due to potential damage to the structure of the bridge, together with the disturbance to the properties on either side of the access road on to the Bailey's Mill site
- would be a significant increase in traffic along the road especially during construction and the road is not adopted and would deteriorate further with this traffic - will the
builder bring the road up to the standard required for adoption by the relevant highways organisation?

• impact on deteriorating road due to extra traffic – applicants have not resurfaced it
• new development will bring increased traffic to both Lumsdale Road and the junctions with the A615 - are there any provisions in the applications for improving these?
• there is one locked gate between Baileys Mill and the new development which would be an inadequate barrier between the two
• the site and the Maltings are currently used as a playground for local children - wonder what security precautions would be in place during the developments
• new development is separate to Baileys Mill, so the name Baileys Mill should be deleted from the location address
• since a Management Company controls the Bailey's Mill site, there needs to be a clear demarcation between the two sites with no access from one to the other except via Lumsdale Road
• Maltings site plan does not concur with the leases for the Mill site.

7. OFFICER APPRAISAL

7.1 This application is submitted solely to address the physical alterations proposed to convert the listed, former Malthouse into residential accommodation. As stated above, there is a planning application (ref: 16/00772/FUL) being considered elsewhere on this Agenda with regard to the redevelopment proposals for the listed building and the wider site.

7.2 During the consideration of this application, Officers have taken on board the concerns which have been raised and discussed alterations and amendments to the initial submission with the applicant in order to ensure that the conversion is more sympathetic to the historic character and appearance of the listed building.

7.3 Much of the initial concerns have been addressed to the satisfaction of Officers, or will otherwise need to be subject to conditions on any grant of listed building consent. Some minor concessions have been made to alter/provide new openings but these are modest in number and nature and are considered necessary to enable the building to be brought back into a viable use whilst safeguarding the intrinsic character and appearance of this historic building.

7.4 There are some matters that have not been fully addressed, such as the apparent proposal to remove an existing, boxed staircase to the former cottage element. This will need to be retained, as will other features such as any historic flooring materials on the ground floor, fireplaces and other internal features as may become apparent through a site investigation and recording of the building. These matters can be addressed through conditions.

7.5 Given the above, it is recommended that listed building consent be granted with conditions to ensure that the works to the building preserve its special historic character and appearance.

8. RECOMMENDATION

That listed building consent be granted subject to the following conditions:

1. Condition ST04a: Time Limit on Listed Building

2. This permission relates to the original submitted plans and documents except as amended by the revised plans numbered 1524 (site location plan) received on 2nd February 2016, 1564-2015-04C, 1564-2016-13 and 1564-2016-14 received on the 20th February 2017 and 1564-2015-02B received on 18th April 2017 and except insofar as may otherwise be required by other conditions to which this permission is subject.
3. This consent relates only to the conversion of the existing building and does not authorise any demolition or rebuilding of any structures beyond the scope of this consent. Prior to the commencement of development, a scheme shall be submitted to the Local Planning Authority outlining the measures to be taken to secure the safety and stability of the listed building prior to and during the course of development.

4. Prior to the commencement of development, a structural engineer’s report shall be submitted to and approved in writing by the Local Planning Authority. The report shall include a full and comprehensive assessment of all current structural defects together with proposed recommendations for mitigation works and/or structural repairs. The development shall be undertaken in accordance with the recommendations outlined unless otherwise agreed in writing by the Local Planning Authority.

5. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions and:

   (i) the programme and methodology of site investigation and recording;
   (ii) the programme for post investigation assessment;
   (iii) provision to be made for analysis of the site investigation and recording;
   (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
   (v) provision to be made for archive deposition of the analysis and records of the site investigation; and
   (vi) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

   No development shall take place other than in accordance with the archaeological Written Scheme of Investigation. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

6. No existing roof timbers (ridge beam, purlins, trusses, braces, rafters or wall-plate) to any part of the building shall be removed, cut, notched or otherwise disturbed without the prior written approval of the Local Planning Authority.

7. In the event of any additional stone slates are required to repair the roof, a sample shall be submitted to and approved in writing by the Local Planning Authority and the repairs shall thereafter be undertaken with the approved sample.

8. Prior to the commencement of development, a methodology for the formation of all new openings, including structural lintels, heads, cills and jambs, shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

9. Prior to the commencement of development, construction details of all windows and doors (fully dimensioned vertical and horizontal sections at a scale of 1:5 and mouldings at a scale of 1:1) to include their design and pattern, and co-ordination to the building elevations, shall be submitted to, and approved in writing by, the Local
10. All joinery shall be of timber construction which shall be given a painted finish within 28 days of being installed in a colour to be first agreed by the Local Planning Authority.

11. Prior to the commencement of development, full construction details of the cill, glazed clerestory and metal roof covering, and their associated abutments, shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

12. Prior to the commencement of development, a methodology for the reconstruction of the lucum, to include samples of the materials/details for its roof, cladding, abutments and finish shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

13. Prior to the commencement of development, a methodology and details for the construction of the lightwell to the rear of the listed building shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in full accordance with the approved details.

14. In the event that any existing paintwork is to be removed from the exterior of the building, a methodology shall be first submitted to and approved in writing by the Local Planning Authority and the works shall thereafter be undertaken with the approved details.

15. This consent does not extend to the removal in whole or in part, or disturbance of any existing internal elements (structural or non-structural) other than those included in the proposed, works without the prior written consent of the Local Planning Authority.

16. Notwithstanding the details on approved drawing no. 1564-2015-02B, no works shall commence on site until a scheme for the protection and restoration of existing internal architectural/historic features in situ (including floor coverings on the ground floor, fireplaces, doors, windows, staircases and other woodwork) has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

17. No works shall commence on site until details of the internal doors and the constructional details of the new staircases, to include balustrading, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reasons:

1. Reason ST04a

2. To define the consent for the avoidance of doubt.

3. To safeguard the future of the listed building in accordance with Government guidance contained in the National Planning Policy Framework.

4. In the interests of establishing the condition of the listed building and to preserve its special historic character and appearance in accordance with Government guidance contained in the National Planning Policy Framework.
5. In order to ensure appropriate investigation and recording of the potential underground archaeology in accordance with Policy NBE24 of the Adopted Derbyshire Dales Local Plan and Government guidance contained within the National Planning Policy Framework.

6-17. In the interests of preserving the special historic character and appearance of the listed building in accordance with Government guidance contained in the National Planning Policy Framework.

NOTES TO APPLICANT:

1. The Local Planning Authority prior to the submission of the application, and during its consideration, has engaged in a positive and proactive dialogue with the applicant which resulted amendments to the scheme that overcame initial concerns relating to protecting the historic features of the listed building.

2. This decision notice relates to the following documents:
   Design and Access Statement received on 30\textsuperscript{th} November 2016
   Heritage Statement and Heritage Impact Assessment received on 30\textsuperscript{th} November 2016
   Amended Site Location Plan 1:1250 received on 2\textsuperscript{nd} February 2017
   Amended Drawing No. 1564-2015-03B, 1564-2016-13 and 1564-2016-14 received 20\textsuperscript{th} February 2017
   Amended Drawing No. 1564-2015-02B received on 18\textsuperscript{th} April 2017.
**APPLICATION NUMBER**  
17/00255/FUL

**SITE ADDRESS:**  
11 New Road, Bolehill

**DESCRIPTION OF DEVELOPMENT**  
Reconstruction of lower garden terrace (part retrospective)

<table>
<thead>
<tr>
<th>CASE OFFICER</th>
<th>H Frith</th>
<th>APPLICANT</th>
<th>Mr and Mrs Hill</th>
</tr>
</thead>
<tbody>
<tr>
<td>PARISH/TOWN</td>
<td>Wirksworth</td>
<td>AGENT</td>
<td>Roger Yarwood</td>
</tr>
</tbody>
</table>

**WARD MEMBER(S)**  
Cllr Slack  
Cllr M Ratcliffe  
Cllr I Ratcliffe

**DETERMINATION TARGET**  
29/05/17

**REASON FOR DETERMINATION BY COMMITTEE**  
Requested by Ward Member to assess impact upon neighbouring resident.

| REASON FOR SITE VISIT (IF APPLICABLE) | To assess the impact of the development upon the neighbouring resident. |

**MATERIAL PLANNING ISSUES**

Issues of both residential and visual amenity.

**RECOMMENDATION**

Approval
17/00255/FUL

11 New Road, Bolehill

Derbyshire Dales DC

Date: 01/06/2017

100019785

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Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 751100.
Website: www.derbyshiredales.gov.uk
1. THE SITE AND SURROUNDINGS
The application site relates to the rear garden of the dwelling no. 11 New Road. The dwellings are set on a sloping site where the land falls to the south. The dwelling has long since had some form of terracing to the rear to connect the dwelling with the garden by providing suitable access. The site is within a residential area on the outskirts of Wirksworth.

2. DETAILS OF THE APPLICATION
Planning permission is sought to reconstruct the lower garden terrace area within the rear garden of the property. There is an upper terrace which has been reconstructed but this does not form part of the application.

The supporting statement submitted with the application makes the following pertinent points:
Terracing has been constructed at the rear of the dwelling to create a level paved patio at the rear of the house and beyond this is a lawned terrace at lower level.
The original retaining walls to this terrace began to show structural distress to the point it was in danger of collapse.
The new wall was built around the original and therefore marginally increased the original terrace and levelled the area which increased the height of the wall by 250mm to the western and southern edges.
The original ground levels and retaining walls remain evident.
The walls with be of concrete blocks part faced in stone and part faced with trellis and climbing plants.

A further plan has been submitted to demonstrate the proposed garden design on this terraced area which would be a beech hedge to the west with herbaceous border and lawn.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK
1. Adopted Derbyshire Dales Local Plan (2005)
   SF1: Development Within Settlement Frameworks Boundaries
   SF5: Design And Appearance of Development
   H2: Extensions To Dwellings

2. National Planning Policy Framework
   National Planning Practice Guidance

4. RELEVANT PLANNING HISTORY:
   None

5. CONSULTATION RESPONSES
   Town Council
   5.1 No comment

6. REPRESENTATIONS RECEIVED
6.1 A total of 3 representations have been received from one party. A summary of the representations is outlined below:
   - Works had already commenced in March 2013 for a continuous terrace area, further works were done in 2016. This is therefore a single development.
   - Coniferous on site have died.
- The original ground levels and not the concrete levels should be referred to for height measurements.
- The ground level has been raised.
- There is a crack in some of the block work.
- The submitted plans contain inaccuracies, contradictions and missing detail.
- The rear of the adjacent dwelling will suffer severe visual intrusion and total lack of privacy.
- The overall structure is overbearing due to its size and scale and is visually intrusive.
- The harm to residential amenity is contrary to adopted and emerging plan policy.
- From the upper terrace there is overlooking into the kitchen/living area of the neighbouring property.
- The proposal is not sympathetic to the gradient or the prevailing character.
- It is impossible to provide a screen without significant engineering works which would be overbearing.
- The height of the original terrace has been exceeded.
- The old flower beds have been removed and the door to the cellar moved.
- The terrace is 2 and a half times the depth of the original.
- There is no landscaping for the proximity.
- No evidence submitted of original height.
- The extension of the terrace is not ‘marginal’ as described in the supporting statement.
- It is considered the terrace is higher than shown on the plan.
- The original ground levels are not shown.
- The plans do not show the raised and exposed foundations.
- No detail is provided of the trellis and climbing plants.
- There is a natural spring in the garden, this development could affect the spring resulting in increased risk of flooding to our and adjacent gardens.

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:
- Elements to be considered as part of this application
- Impacts upon character and appearance of the area
- Impact upon residential amenity

Elements to be considered as part of this application

7.2 This permission has been submitted specifically in relation to the lower garden terrace only. This was queried through the application process as concerns had been raised regarding the impact of this structure upon the amenity of the neighbouring resident.

7.3 Having discussed the matter with the applicant and their agent it would appear this structure has been in place for over four years and that they have evidence to prove this. Such evidence has not been submitted and therefore this matter can be investigated further by the Council’s Enforcement team. As such this application relates solely to the lower garden terrace and this application will only consider this element.

Impacts upon character and appearance of the area

7.4 It is clear from the submitted details and the photographs provided by the neighbouring resident that the development of the lower garden terrace is larger and higher than the original terrace. However, as permission is sought for this what needs to be considered is the impact of this enlarged terrace area. Given the sloping nature of the gardens in this area and the heights at which the dwellings sit, it is necessary to provide some sort of terracing to allow access from the dwelling to the garden area. In this case the terrace proposed is larger than most terraces within the locality but this does not in itself mean that it is unacceptable. It is considered that with the landscaping proposed and the
cladding of the structure in stone to match the existing the lower garden terrace will assimilate well into the garden surroundings. As such it is considered that the development is in keeping with the prevailing character and appearance of the area subject to conditions relating to the finish and landscaping of the structure. With regard to visual impact the proposal is acceptable in accordance with local and national plan policy.

**Impact upon residential amenity**

7.5 Significant concern has been raised by the neighbouring resident regarding the impact the increased size and height of the terrace has upon their privacy through overlooking. The reconstructed terrace is higher and larger than the original and therefore there is increased potential for overlooking and loss of privacy from looking down into the garden of and back towards the dwelling house of the neighbour as a result of the works that have been undertaken. However, the additional plan submitted showing a beech hedge to the western boundary of the terraced area which would also contain lawn and herbaceous border would mitigate against the overlooking. Therefore subject to a condition requiring the planting and maintenance of a boundary hedge to the terrace it is considered that the potential for adverse impact upon amenity can be reduced to an acceptable level. It is considered that in terms of residential amenity the proposal is acceptable in accordance with local and national planning policy.

7.6 A concern has been raised in regard to flooding, it does not appear that the works have in any way compromised the natural spring therefore there is no reason to assume these works will cause any flooding issues. As the lawn to the terrace will be porous there is no need to submit any further detail regarding the drainage of this lower level of the terrace.

**Conclusion**

7.7 To conclude and having full regard to the history of a raised terrace to this garden, it is considered that the proposed works are acceptable subject to suitable facing detail and the planting of a hedge to the lower garden terrace to mitigate against any overlooking. The proposal is recommended for approval.

8. **RECOMMENDATION**

That planning permission be granted subject to the following conditions.

1. Within the first planting season following the determination of this application a beech hedge shall be planted along the western boundary of the lower garden terrace as detail on the submitted landscaping plan. The hedge shall be maintained and restocked as a substantial hedge as necessary and maintained to a height of at least 1.8m.

2. The facing of the walling to the lower garden terrace shall be of stone to match the existing upper terrace unless otherwise agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

**Reasons:**

1. To protect residential amenity in accordance with policies SF1, SF5 and H2 of the Adopted Derbyshire Dales Local Plan and guidance contained with the National Planning Policy Framework.

2. In order to ensure an appropriate finished form of development in accordance with policies SF1, SF5 and H2 of the Adopted Derbyshire Dales Local Plan and guidance contained with the National Planning Policy Framework.
NOTES TO APPLICANT:

1. The Local Planning Authority prior to and during the consideration of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to landscaping of the site and accuracy of the plans.

2. The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

3. This decision notice relates to the following documents:
   Landscaping plans submitted 12.05.17
   Amended plans submitted 14.05.17
   Block plan submitted 03.04.17
   Location plan 03.04.17
   Supporting Design and Access Statement received 03.04.17
**APPLICATION NUMBER**  
16/00164/OUT

**SITE ADDRESS:**  
Wirksworth Hall Farm, Wash Green, Wirksworth

**DESCRIPTION OF DEVELOPMENT**  
Residential development for up to 14 dwellings (outline)

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<tr>
<th>CASE OFFICER</th>
<th>Mr. G. A. Griffiths</th>
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<td><strong>APPLICANT</strong></td>
<td>R. G. Millward Ltd.</td>
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<th>Wirksworth</th>
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<td><strong>AGENT</strong></td>
<td>Crowley Associates</td>
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| **WARD MEMBER(S)** | Cllr. Mrs. I Ratcliffe  
|                     | Cllr. M. Ratcliffe    
|                     | Cllr. P. Slack        |
| **DETERMINATION TARGET** | 30th August 2016    |

**REASON FOR DETERMINATION BY COMMITTEE**  
Major application/ departure from development plan

**REASON FOR SITE VISIT (IF APPLICABLE)**  
To allow members to assess the impact of the proposed development of the site on the character and appearance of the Conservation Area and the impact on neighbouring residents.

**MATERIAL PLANNING ISSUES**

- Principle of development / policy context
- Impact on heritage assets and features of archaeological interest;
- Design, scale and appearance of the development
- Site contamination
- Site drainage
- Highway matters
- Drainage matters
- Archaeological matters
- Nature conservation
- Impact on neighbours’ amenity
- Other matters

**RECOMMENDATION**

Refusal
16/00164/OUT

Wirksworth Hall Farm, Wash Green, Wirksworth
1. THE SITE AND SURROUNDINGS

1.1 The site is a field which lies immediately to the south of Wash Green and to the west of a recent development of 22 affordable dwellings that are accessed off King Edward Street.

1.2 The application site is very prominent in a wide range of views from the west and can be viewed from the access to Wirksworth Hall Farm of Wash Green. The site rises from the access off Wash Green to a plateau and then drops downhill to south west. The access is runs relatively centrally across the field. However, planning permission has been granted to relocate the access to the western boundary of the field in order that if the application site were to be developed that a separate access will be maintained to Wirksworth Hall Farm and the residential converted barn range to the south. The revised access position has been commenced but not completed.

1.3 The existing dwellinghouses fronting Wash Green are within the Settlement Framework boundary for Wirksworth, whilst the application site is outside. The site is within the Wirksworth Conservation Area.
2. DETAILS OF THE APPLICATION

2.1 Outline planning permission, with all matters reserved, is sought for a residential development of up to 14 dwellinghouses to be accessed via the recent affordable housing development off King Edward Street.

2.2 The applicant has submitted the following documentation in support of the application:
- Indicative Layout Plan
- Heritage Assessment
- Historic Environment Desk Based Assessment
- Planning Statement
- Design and Access Statement
- Transport Statement
- Ecological Appraisal
- Phase 1 Desk Study
- Flood Risk Assessment.

2.3 The applicant advises that the overriding vision of the scheme is to provide a variety of new homes which seek to achieve the following aims:
- preservation and enhancement of Wirksworth’s unique character
- creation of new communities and development of existing social network
- contribute to the existing townscape by developing on an isolated plot of land
- reduce reliance on fossil fuels through understanding of low energy architectural design
- raise aspirations of society by offering modern standards of living in well designed homes
- creation of a new pedestrian link to the town from Queen Elizabeths Close, improving access and connectivity
- boost opportunities in the local construction industry
- address shortfall in housing land supply
- provide new homes that are suitable for all members of society, regardless of age or physical ability.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2005)
SF4: Development In The Countryside
SF5: Design and Appearance of Development
H4: Housing Development Outside Settlement Framework Boundaries
H9: Design and Appearance Of New Housing
H12: Alternative Provision For Affordable Housing Outside Settlement Frameworks
NBE4: Protecting Features Or Areas Of Importance To Wild Flora And Fauna
NBE5: Development Affecting Species Protected by Law Or Are Nationally Rare
NBE6: Trees and Woodlands
NBE7: Features Important In The Landscape
NBE8: Landscape Character
NBE12: Foul Sewage
NBE16: Development Affecting A Listed Building
NBE26: Landscape Design In Association With New Development
NBE27: Crime Prevention
TR1: Access Requirements And The Impact Of New Development
TR2: Travel Plans
TR3: Provision For Public Transport
TR8: Parking Requirements For New Development
CS8: Provision Of Community Infrastructure
L6: Outdoor Playing And Play Space In New Housing Developments
3.2 National Planning Policy Framework (2012)
Paragraphs 7, 12, 14, 17, 47, 49, 50, 56, 73, 109, 118, 123, 129, 131, 132, 133, 134, 135, 139, Annex 1: Implementation Paragraphs 210, 214, 215

3.3 National Planning Practice Guidance

3.4 Wirksworth Neighbourhood Development Plan (2015-2028)
NP1 Setting and Shape of Settlement
NP2 Quality and Character of Development within the Settlement
NP3 Sites with Concept Statement
NP4 Size of New Homes and Space Standards
NP5 Principle Residence Homes
NP6 Quality of Residential Development
NP7 Energy-Saving Standards for New Dwellings
NP19 Provision for Pedestrians And Cyclists

3.5 The ‘Setting of Heritage Assets’ document 2015 (Historic England)

3.6 Wirksworth Conservation Area Appraisal

3.7 Deposit Draft Derbyshire Dales Local Plan (2016)
S3: Settlement Hierarchy (Wirksworth is within the first tier)
S5: Development in the Countryside
PD2: Protecting the Historic Environment
PD5: Landscape Character
PD8: Flood Risk Management and Water Quality
HC1: Location of Housing Development
HC2: Housing Land Allocations
HC4: Affordable Housing
HC11: Housing Mix and Type

3.8 Derbyshire Dales District Council Supplementary Planning Document - Affordable Housing.

4. RELEVANT PLANNING HISTORY

13/00806/FUL Relocation of access track - Granted
10/00029/FUL Residential development comprising 27 no. dwellings and associated access – Granted.

5. CONSULTATION RESPONSES

Town Council

5.1 - application documents mention neighbourhood plans but pay no regard to the adopted neighbourhood plan, nor to its character guidance
- the proposal conflicts with Policy NP2 (quality and character of development), NP4 (space standards) and NP6 (quality of residential development)
- regarding Policy NP6, dispute the application claims of achieving 12 'greens' against Building for Life criteria
- applicant should also submit more evidence that the proposal accords with Policy NP7 (energy saving standards).
- recommend that should the application be permitted, it should be subject to a condition to ensure occupation as principal residences only (Policy NP5)
- ask that DDDC make clear in any outline permission, that a revised layout which is in line with the Neighbourhood Plan policies should be submitted
- suggest that consideration/exploration should be undertaken regarding the provision of a footpath link downhill behind the existing houses to the bridge, which would accord with Policy NP19 (provision for pedestrians and cyclists) perhaps under a S106 agreement.

Land Drainage Authority (DCC)
5.2 - comments regarding seeking improvements to the level of water run-off to seek to improve/attenuate current flooding levels downhill from the site
- it is advised that under the Land Drainage Act (1991) it is the landowner’s responsibility to maintain the free passage of flow of the culverted watercourse into which to dispose of surface water
- it is noted that the applicant has committed to surveying the culverted watercourses within the redline boundary although it may be of benefit to the wider community if the landowner/applicant agreed to survey the condition of the culvert where it falls within all land under their control, i.e. that land outlined in blue and any other land owned by the applicant through which the culvert passes
- details of the survey would then provide evidence to support any additional requirements for works to be undertaken to the culvert in question, so as to provide assurance of the long term ability of the culvert to drain both the development site and the adjoining land contributing to the watercourse flow, and ensure that the existing flood risk to a number properties at Wash Green has been considered as a part of this application
- given the nature of the ongoing problems in the Wash Green area with the risk of flooding and the minimal opportunities available for reducing the risk, feel that any opportunity for improvement would be of benefit to local residents.

Environment Agency
5.3 - no objection.

Local Highway Authority (DCC)
5.4 - consider that a small scale residential development on the site, accessed via the existing turning head to Queen Elizabeth’s Close, is acceptable in principle
- visibility onto both Queen Elizabeth’s Close and King Edward Street considered acceptable due to slow speed and volume of traffic associated with them. Similarly visibility onto Wash Green is considered acceptable due to the wide verge present either side of the junction.
- there are a number of fundamental issues with the proposal that raise highway concerns but it is appreciated that this application is for outline consent only, with all matters reserved, with the vast majority of the concerns being able to be addressed as part of a future reserved matters application.

Strategic Planning (DCC)
5.5 - require financial contribution of £22,798.02 towards the provision of two school places through internal remodelling of Wirksworth Junior School
- sufficient capacity at infant schools
- suggest provision of broadband.

Development Control Archaeologist (DCC)
5.6 - site lies to the west of what is likely to have been the medieval core of settlement at Wash Green, around a triangular ‘green’ which is visible on historic maps
- the site to the east was adjacent to this core, and was subject to geophysical survey and trial trench evaluation, with negative results - where the geophysical survey overlapped the current proposal site there were no significant targets
- desk-based assessment concludes that the site formed part of a field called ‘Lady Croft’ in use since at least the 13th century
- historic map evidence does not suggest that there were buildings on the site during the post-medieval period
- feel that the archaeological potential on the site is low; it lies further from the historic core of Wash Green than the neighbouring site, which produced negative results, and there is evidence of a long-standing agricultural use which probably precludes medieval settlement activity
- geophysical coverage, though partial, suggests no significant archaeological foci
- on balance, recommend that there is no requirement for further archaeological work under the policies at NPPF Chapter 12.

Historic England

5.7 - application should be determined in accordance with national and local policy guidance and on the basis of the District Council’s specialist conservation advice.

Design and Conservation Officer (DDDC)

5.8 - scheme as submitted does not appear to have taken any of the LPA’s pre-application advice into account
- principle of developing site is considered to be acceptable
- the following concerns are raised (and were raised at pre-application stage) regarding the submitted scheme:
  - have placed much weight on the preservation and presence of the former trackway route - consider that this blocked off roadway onto Wash Green will appear out of context and out of character with the settlement morphology presenting a new, highway grade roadway terminating abruptly adjacent to Wash Green - this will appear as if it was intended to take traffic off Wash Green but has been blocked for some reason
  - consider that such a major development will alter the site character irrevocably and that the retention of a former trackway through the site and its interface with Wash Green should not be given such weight as to influence the layout of the development
  - consider that the scheme should be designed and laid out with a particular regard to its interaction and interface with Wash Green – the current proposal (at this interface) appears to be the end of a cul-de-sac which looks unresolved and uncomfortable within its context
  - the visual presence of one-storey properties adjacent to Wash Green will introduce a building form which is alien and un-traditional to the general street scene and context of Wash Green
  - a visibility line has been preserved within the layout giving a momentary glimpse or vista of the church and town to the west – considered that such a view should not necessarily dictate the layout of the scheme and the preservation of this momentary view is exacerbated by a viewing platform to the footway creating a very urban feature within the site
  - the design of the proposed housing is very different to that of the existing, recent, development to the east
  - orientation, massing, grouping and form of the previous development creates a built mosaic presence on the sloping topography which in distant views, and closer views/vistas, assimilates with much of the existing character and layout of Wash Green (excluding King Edward Street) - the ‘fanned’ layout, gable-end dominance and proposed house design all contribute to making the proposed scheme appear very much out of context and character with the prevailing built mosaic of Wash Green and, therefore, not sensitive to location
  - the number and extent of units of a very different type, layout and would be in conflict with the prevailing character and appearance of Wash Green and in that regard always appear alien and out of context.
5.9 - no objection in principle.
- concerned that the dwellings located in the southern part of the site will be adversely
affected by the existing, overshading trees and that insufficient access is provided for
their ongoing management
- should include an area free of development to allow dwellings to be offset from the trees
to preclude nuisance and allow for maintenance.

Environmental Health (DDDC)
5.10 - recommend condition be applied with regard to site remediation of potential
contamination.

6. REPRESENTATIONS RECEIVED

6.1 A total of twelve letters of representation have been received from ten local residents. A
summary of the representations is outlined below:

- impact on landscape from building on a greenfield site
- believe opportunities to meet housing need should be on brownfield sites such as
Middle Peak quarry should be fully pursued and protected land such as the proposed
site should be preserved
- development of Queen Elizabeth Close has had a detrimental impact on Wash Green
which any further development would exacerbate
- highly intrusive on sloping site
- conservation areas are surely for conserving the whole area, including green spaces
as well as buildings
- greenfield site on the edge of an Article 4 Conservation Area and provides a break in
the houses, a characteristic of Wirksworth where there is a fusion of buildings and
green spaces
- dominating development
- has modern housing estate feel completely out of keeping with the area
- any development should be built in traditional materials
- existing building line created by the Dales Housing scheme could be followed down
the field to still have green space between there and the main road
- inability of road to cope with increased traffic
- pedestrian safety as there are no or inadequate pavements
- impact on local parking provision
- issues of flooding at the bottom of Wash Green
- overlooking of neighbouring property
- loss of privacy
- loss of light
- increase in noise levels
- increase in light pollution and loss of birds and animals
- risk to 200year old retaining wall and potential damage to neighbouring property
- if farm access used could damage culvert
- supporting documents say development is approved as the District Council does not
have a 5 year plan for housing
- concerns over the public consultation.

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:

1. Principle of development /policy context
2. Impact on heritage assets and features of archaeological interest;
3. Design, scale and appearance of the development
4. Site contamination
5. Site drainage
6. Highway matters
7. Drainage matters
8. Archaeological matters
9. Nature conservation
10. Impact on neighbours’ amenity
11. Other matters.

**Principle of Development / Policy Context**

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions by Local Planning Authorities on planning applications are taken in accordance with the development plan unless material considerations indicate otherwise.

7.3 The Derbyshire Dales Local Plan, adopted in 2005, comprises the development plan for the area. Its policies have been saved and continue to be relevant where they are consistent with guidance contained within the National Planning Policy Framework (2012). Whilst the Framework does not change the statutory status of the development plan as the starting point for decision-making, policies contained within the Framework are material considerations which must be taken into account. The National Planning Policy Framework (NPPF) sets out the Government's planning policy for England.

7.4 The District Council considers that it is able, based on up to date analysis of development that will come forward in the next five years, to identify a rolling five year supply of housing land.

7.5 Policies and draft site allocations in the emerging Derbyshire Dales Local Plan also make appropriate provision for the delivery of housing to meet the District’s objectively assessed housing needs up to 2033. The NPPF makes clear that the Government considers that local plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities. The site is not allocated for housing development in the emerging Derbyshire Dales Local Plan. The site is, however, located on the edge of Wirksworth, a main market town. Policy S3 of the emerging Local Plan identifies Wirksworth as a tier one settlement where significant growth and development will be focused, to safeguard and enhance its strategic role as an employment and service centre. Although the initial hearing of the emerging Local Plan has been carried out by the appointed Local Plan Inspector, it cannot be afforded full weight at this time until the Examination in Public (EiP) has concluded and the appointed Inspector has issued a report confirming that the plan is sound.

7.6 Housing policies contained within the Adopted Derbyshire Dales Local Plan (2005) do not envisage new housing development beyond the plan period and are based on outdated housing needs information. Such policies are, therefore, considered to be out of date for this reason. The Supreme Court judgement handed down in *Suffolk Coastal District Council v Hopkins Homes and Secretary of State for Communities and Local Government; Cheshire East Borough Council v Richborough Estates Partnership LLP and the Secretary of State for Communities and Local Government* [2017] provides clarification on the category of policies that should be considered policies for the supply of housing, and made clear at [56] and [59] that the primary route to rendering a policy for the supply of housing out of date is the absence of a five year supply of housing. This judgement clarifies that Development Plan policies which do not relate to the supply of housing, and align with guidance contained within the NPPF, should not be automatically disappplied where the District Council is able to demonstrate a five year housing land supply. It is therefore
necessary to determine whether other material considerations indicate that the application should be determined otherwise than in accordance with the development plan.

7.7 Paragraph 14 of the NPPF requires that where the development plan is absent, silent or the relevant policies are out of date, grant planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this framework taken as a whole; or
- specific policies in the framework indicate development should be restricted.

7.8 Having regard to the latter part of Paragraph 14, Footnote 9 makes particular reference to policies relating to designated heritage assets. In this case the site is located with Wirksworth Conservation Area, a designated heritage asset.

7.9 The Wirksworth Neighbourhood Development Plan is the most recently adopted element of the development plan and therefore has weight in the decision making process. Where relevant its policies are referred to in the matters considered below.

Impact on Heritage Assets and Features of Archaeological Interest

7.10 Paragraphs 132, 133 and 134 of the NPPF state that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration and destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification……Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss……Where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use .

7.11 The Historic England document, ‘Setting of Heritage Assets’ confirms on page 2 that the setting of a heritage asset is the surroundings in which a heritage assets is experienced and that this extent is not fixed. The document goes on to confirm that the setting of a designated heritage asset can contribute to its significance and sets out three stages of the assessment of heritage assets;

- stage 1: identifying the heritage asset affected and its setting,
- stage 2: assessing whether, how and to what degree these settings make a contribution to the significance of the heritage asset
- stage 3: assessing the effect of the proposed development on the significance of the asset.

Stage 1: identifying the heritage asset affected and its setting

7.12 The heritage asset the focus of this assessment is the Wirksworth Conservation Area. The area of Wash Green is characterised by traditional dwellinghouses aligning and set back from the main road, with the development at King Edward Street and the recent development at Queen Elizabeth Close being large extensions off the more traditional, linear pattern of development. Nonetheless, the 20th and 21st century developments now form part of the character and appearance of this area.
7.13 The land itself is part of a field that sat between the Wirksworth Hall Farm buildings. The top (eastern) part of the field was developed for the affordable housing development which is now Queen Elizabeth’s Close as an exception site. This was prior to the Local Planning Authority identifying that the Housing Land Supply Allocation was inadequate to meet the housing needs of the District moving forward. What has been left is a field across which the access to Wirksworth Hall Farm runs centrally. However, prior to the submission of this planning application, the land owner gained planning permission (ref: 13/00806/FUL) to relocate the access along the western perimeter of the site in order to remove this as a potential constraint to future development potential of the field. Wirksworth Hall Farm has also seen its traditional agricultural buildings converted to dwellinghouses.

Stage 2: assessing whether, how and to what degree these settings make a contribution to the significance of the heritage asset.

7.14 In the wider context of the Conservation Area, the field presents an area of open countryside interjecting into the built form of Wash Green. This is evident in views not only from Wash Green, but also from the higher areas of Wirksworth, particularly from across the valley from the west. The land forms part of the buffer to Wirksworth Hall Farm, separating this countrified development from the historic urban form of Wash Green.

Stage 3: assessing the effect of the proposed development on the significance of the asset.

7.15 The Conservation Area of Wirksworth has a wide setting reflecting upon the town being set within a valley. In this respect, the fields surrounding the town are contained within the Conservation Area to seek to preserve the setting of this historic town. This proposal will introduce housing development into the remains of the larger field which abuts the settlement boundary line to the south of Wash Green. However, with the developments at King Edward Street and latterly at Queen Elizabeth’s Close, the southern boundary of Wash Green has to a large extent lost the almost linear definition to Wash Green.

7.16 In this respect, if the site were to be developed, the trees to the southern boundary of the site, and to the north of Wirksworth Hall Farm, would form a clear definition to the area where built form meets open countryside and would in this respect preserve the historic sense of evolution of the properties along Wash Green. Whilst some harm may be perceived to the Conservation Area, this has to be considered less than substantial to the heritage asset. Nonetheless, where harm exists, this has to be assessed against the public benefits derived from the proposed development.

Design, Scale and Appearance of the Development

7.17 Whilst the application has been submitted with all matters reserved, the applicant has submitted indicative details of a scheme for 14 dwellinghouses. It is therefore considered reasonable to consider the nature of these proposals as to whether the parameters shown are generally acceptable or not in order to inform any reserved matters application should outline planning permission be granted.

7.18 The proposed roadway follows, more or less, the alignment of the existing trackway to Wirksworth Hall Farm. A new access trackway is being formed to the Farm along the southern edge of the site. The proposed roadway details pavements to each side and terminates with an area of grass blocking to the end of the roadway onto Wash Green. The applicant has placed much weight on the preservation and presence of this former trackway route resulting in the roadway design as included in the indicative scheme. However, it is considered that this blocked off roadway onto Wash Green will appear out of context, and out of character, with the settlement morphology presenting a new, highway
grade roadway terminating abruptly adjacent to Wash Green. In essence, this will appear as if it was intended to take traffic off Wash Green but has been blocked for some reason.

7.19 In considering a major development of this parcel of land, it is considered that such a development will alter its character irrevocably and that the intellectual retention of a former trackway through this greenfield site, and its interface with Wash Green, should not be given such weight as to influence the layout of the development. Nevertheless, the access, in its current location or revised location, does read as the gateway to Wirksworth Hall Farm through the field. However, if the principle of residential development were to be considered acceptable, in conceiving a new built development housing scheme for this site which will occupy this site for the next few centuries, such a scheme should be designed and laid out with a particular regard to its interaction and interface with Wash Green.

7.20 Whilst an area of open land may be retained (a covered culvert runs below part of this frontage) the layout and housing design should have a more distinctive and intimate relationship with Wash Green. The current proposal, at this interface, appears to be the end of a cul-de-sac which looks unresolved and uncomfortable within its context.

7.21 The proposed layout of the housing is in a NE/SW alignment and has a ‘fanned’ orientation. The dwellings are all gable-end on to the access roadway and all of a similar size (detached and semi-detached) with some single storey properties adjacent to Wash Green. As discussed above, the northern part of the scheme, adjacent to Wash Green, presents an unresolved termination and no effective spatial containment or interface with Wash Green. The visual presence of single storey properties adjacent to Wash Green will introduce a building form which is alien and untraditional to the general street scene and context of Wash Green.

7.22 A visibility line has been preserved within the layout giving a momentary glimpse or vista of the church and town to the west. It is considered, in this location, that such a view should not necessarily dictate the layout of the scheme. The preservation of this momentary view is exacerbated by a viewing platform to the footway creating a very urban feature within the site.

7.23 The design of the proposed housing is very different to that of the existing, recent development to the east. The orientation, massing, grouping and form of this previous development creates a built mosaic presence on the sloping topography which in distant views, and closer views/vistas, assimilates with much of the existing character and layout of Wash Green (excluding King Edward Street). The ‘fanned’ layout, gable-end dominance and proposed house design all contribute to making the proposed scheme appear very much out of context and character with the prevailing built mosaic of Wash Green and, therefore, not sensitive to location. Whilst the proposed scheme may have been perceived as a fresh design concept for this site, the reality of the situation would be that, in its number and extent of units of a very different type, layout and design, this would be in conflict with the prevailing character and appearance of Wash Green and in that regard always appear alien and out of context.

7.24 Nevertheless, what has to be assessed is whether it is appropriate and practical to provide 14 dwellinghouses on the site. In this respect, given the aims of emerging Local Plan Policy, it is considered that a mix of housing, to be required under Policy HC11, and the provision of affordable housing under Policy HC4, would lead to a development more akin to the nature of residential development in the area, being a mix of house sizes. In this respect, given the indicative plan details, it is considered that a similar number of dwellings, with an appropriate mix and design, could be physically provided on the site and that this can be addressed with a reserved matters application.
Site Contamination

7.25 The District Council’s Environmental Health Section has advised of no objection to the application subject to conditions with respect to site contamination.

Site Drainage

7.26 The Land Drainage Authority has raised concerns with the existing flood risk of property below the application site. However, the applicant has advised that drainage can be provided that will not accentuate the existing site run-off. In this regard, it is considered that the Land Drainage Authority cannot place a burden on the applicant to improve the existing drainage in the area as a reasonable condition of granting planning permission if the applicant can demonstrate no increase in the current problems will be caused.

Highway Matters

7.27 The Local Highway Authority has previously provided comments on the access implications with regard to the above site to the District Council as part of its housing land allocation assessment, with the Local Highway Authority noting that there may be scope for some very limited development served via the new estate street (Queens Elizabeth's Close).

7.28 Following on from these, the Local Highway Authority considers that a small scale residential development on the site, accessed via the existing turning head to Queen Elizabeth’s Close, is acceptable in principle. The visibility onto both Queen Elizabeth’s Close and King Edward Street is considered acceptable due to the slow speed and volume of traffic associated with them. Similarly, visibility onto Wash Green is considered acceptable due to the wide verge present either side of the junction. However, there are a number of fundamental issues with the proposal as submitted that raise highway concerns and the following points provide an overview of these concerns that will need to be addressed as part of any reserved matters application. On this basis, the Local Highway Authority advises that it is not in a position to object to the outline planning application. Accordingly, a number of conditions have been requested.

Nature conservation

7.29 With respect to wildlife issues, the site is principally an open field which would have limited wildlife habitat value. The hedges and trees around the site are, in the main, to be retained and additional landscaping would be expected that could provide for potential wildlife habitat.

Archaeological Matters

7.30 The Development Control Archaeologist considers that the archaeological potential on the site is low and, on balance, it is recommended that there is no requirement for further archaeological work under the policies in Chapter 12 of the National Planning Policy Framework.

Impact on Neighbours Amenity

7.31 Whilst the site overlooks and is overlooked by neighbouring properties, it is considered that appropriate distances can be achieved between the proposed dwellinghouses and existing properties to ensure that the amenities of residents in terms of privacy, light and outlook are not significantly harmed. However, these matters would need to be fully assessed with any reserved matters application if outline permission is granted.
Other Matters

7.32 Derbyshire County Council has requested a financial contribution of £22,798.02 towards the provision of two junior spaces resulting from the development and this can be the requirement of a Section 106 Agreement to secure these monies prior to the issuing of any outline planning permission. As this is a requisite of the development, it cannot be given weight in the balance of considerations of the application.

Conclusion

7.33 The planning policy context above sets out the local and national planning policy and guidance that apply in assessing the merits of this application and the other material considerations that need to be weighed in the planning balance. Paragraph 14 of the NPPF advises that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It is accepted by the Local Planning Authority that policies which restrict the supply of housing within the Adopted Derbyshire Dales Local Plan (2005) are out of date, however, not by reason of the District Council not being able to demonstrate a five year housing land supply.

7.34 There is no requirement to consider whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, where specific policies in the NPPF, including those which relate to designated heritage assets, indicate that development should be restricted. In this case, harm has been identified to the character and appearance of Wirksworth Conservation Area, albeit this less than substantial harm. As such, and in accordance with paragraph 134 of the NPPF, this harm needs to be weighed against the public benefits of the proposal.

7.35 The economic, social and environmental strands of sustainable development, and the public benefits that would be derived from the proposal, are not considered to outweigh the harm to the character and appearance of Wirksworth Conservation Area which has been identified.

7.36 The social and environmental benefits would be limited to the delivery of new homes in a sustainable location, in terms of access to services, facilities and employment opportunities. However, the site is not allocated for housing in the emerging Local Plan and the ability of the District Council to demonstrate a 5 year housing land supply, and provide enough housing through policies and allocations to meet its objectively assessed housing needs, is such that this would not constitute a significant public benefit of the proposal.

7.37 The economic benefits would be limited to employment generated during construction and the benefit to businesses within the town from additional resident spend. However, such benefits are derived from any new housing development that is built and, without any need to build additional housing to meet the District’s objectively assessed housing needs, can only be afforded limited weight.

7.38 The proposed development would erode the urban/rural interface of the town, resulting in less than substantial harm to the character and appearance of this part of Wirksworth Conservation Area that would not be outweighed by the public benefit to be derived. Therefore, it is recommended that the application be refused on this basis.

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8. RECOMMENDATION

That outline planning permission be refused for the following reason:

1. The proposed development would erode the urban/rural interface of the town, resulting in less than substantial harm to the character and appearance of this part of Wirksworth Conservation Area that would not be outweighed by the public benefit to be derived. As such, the proposal is considered to be contrary to Policy NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within Paragraphs 17 and 134 of National Planning Policy Framework Paragraphs 17 and 134 of the National Planning Policy Framework and fails to comply with Policy NBE21 of the Adopted Derbyshire Dales Local Plan (2005).

NOTES TO APPLICANT:

1. The Local Planning Authority sought to engage with the applicant in a positive and proactive manner with regard to pre-application discussion and with regard to seeking to address fundamental concerns of the scheme with regard to land drainage. However, having considered the merits of the submitted application it was judged that there was no prospect of resolving the fundamental planning problems with it through further 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 and thereby allowing the applicant to exercise their right to appeal.

This decision notice relates to the following documents:

Site Location Plan 1:1250 received on 31st May 2016
Heritage Assessment received on 31st May 2016
Historic Environment Desk Based Assessment received on 31st May 2016
Planning Statement received on 31st May 2016
Design and Access Statement received on 31st May 2016
Transport Statement received on 31st May 2016
Ecological Appraisal received on 31st May 2016
Phase 1 Desk Study received on 31st May 2016
Arboricultural Report received on 31st May 2016
Amended Flood Risk Assessment received on 20th February 2017.
### Application Details

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<td>Site Address:</td>
<td>Rotherwood House, Dale Road South, Darley Dale.</td>
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<tr>
<td>Description of Development</td>
<td>Single / two-storey extension.</td>
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<tr>
<th>Case Officer</th>
<th>Mr. A. T. Ecclestone.</th>
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<td>Applicant</td>
<td>Mr. &amp; Mrs. Walker.</td>
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<td>Parish/Town</td>
<td>Darley Dale.</td>
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<td>Agent</td>
<td>Mr. Derek Trowell.</td>
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<td>Determination Target</td>
<td>31&lt;sup&gt;st&lt;/sup&gt; March 2017.</td>
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#### Material Planning Issues

1. Design and appearance.
2. Impact on neighbouring residents.

#### Recommendation

Approval
1. **THE SITE AND SURROUNDINGS**

1.1 The application property is a large, old, stone-built house, situated on the main A6 between Matlock and Darley Dale, opposite the former St. Elphins School. It has a high, stone-built, roadside boundary wall. The property was formerly subdivided to form two houses.

2. **DETAILS OF THE APPLICATION**

2.1 The proposal is for a contemporary single / two-storey extension on the road-facing elevation. The single-storey extension will have vertical timber cladding to the wall and a flat, membrane roof. It will fill-in the area between the existing gable-end and the roadside boundary wall. The end wall of this element projects 0.3m above the level of the existing roadside wall, but sits behind it. The original proposal has been amended following concerns raised about its design and appearance. The single-storey extension was originally intended to have a green ‘sedum’ roof with a sitting out area and...
pedestrian access from the first-floor. However, these elements have now been removed from the scheme. It is now intended to have a flat, membrane roof, but with no pedestrian access at first-floor level and no sitting out area.

2.2 The proposed first-floor section has also been amended following concerns raised about its design and appearance. It was originally intended to have a contemporary design with a flat-roof, oversized windows with projecting box window frames and a pedestrian doorway opening out onto the sitting out area. However, the revised scheme will have a pitched slate roof to match the main house with coursed stone, standard windows and no doorway out onto the flat-roof. The first-floor extension will project out 3.35m from the existing dwelling. It will extend up 3.5m to the ridge above the level of the adjoining flat roof, with an overall height of 6.7m. It will be located 3.1m from the side wall of the neighbours’ two-storey road-facing projection which contains a side window.

2.3 In response to the objection received, the applicant has made the following detailed comments:

- There is nothing of any planning relevance in the objection. The original building has been two houses for 80 years - Rotherwood and Rotherwood House are two distinct and separate properties with clear, defined and registered boundaries. It is clear where one house ends and another starts – we have separate driveways, entrances, front doors, boundary walls etc. It is not a Listed Building or a Conservation Area or within the Peak District National Park.

- The objections to the green roof have been noted and the plans revised accordingly. There is no green roof, no door, no access to the roof space, other than from the existing fire exit window. The green roof was simply a design feature which we are happy to give up.

- The final design has the visible part of the extension in dressed Derbyshire stone, a slate roof and wooden windows inkeeping with the existing building. The view from the road will be inkeeping with the existing house. The architectural integrity of the house is maintained.

- Any structural concerns are addressed by our Structural Engineer, Mr. David Erskine.

- The proposed first-floor extension is 10 feet away from the neighbours’ hallway window and complies with the 45 degree rule. It is not a habitable room. We offered to mitigate the impact by offering to install and pay for a Velux window, sun tube or similar, but these suggestions were deemed unsuitable by our neighbour.

- When we bought the property in 2009, it was in a poor state of repair. We have done much to improve the property, all of which has been done sympathetically. We are passionate about the heritage of the property, but are a modern family with modern needs for space, hence the proposal.
• I hope that we have clearly addressed the concerns of our neighbours. All angles have been considered. We have worked pro-actively with the Planning Department. The proposal is sympathetic to the streetscene and the house.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK
3.1 Adopted Derbyshire Dales Local Plan (2005)
   SF5    Design And Appearance Of Development
   H2     Extensions to Dwellings

3.2 National Planning Policy Framework (NPPF)

3.3 Chapter 7    Requiring Good Design

4. RELEVANT PLANNING HISTORY
11/00734/FUL     Erection of garage with car port.        Granted

5. CONSULTATION RESPONSES
5.1 Town Council
   No objection.

6. REPRESENTATIONS RECEIVED
6.1 An objection has been received from the owners of the adjoining house, which can be summarised as follows:
   • Overdevelopment. We have owned the adjoining house for 33 years. The extension will have an unacceptable impact on our internal and external amenity space, including loss of light, overlooking and overshadowing. Inadequate space between the extension and our property. Unacceptable level of elevated and unusable private amenity space overlooking our garden, patio, the A6 and into our house. Dangerous, overbearing, it sits directly over the A6 and above our patio. Impact on the character of a beautiful period country house. Harmful impact on the appearance of the property and visual intrusion of the streetscene. Unreasonable and unacceptable close proximity of the proposed development – permitting unacceptable visual access to our daughter’s bedroom and grandchildren’s playroom, bathroom, toilet, hallway, pantry and utility room. Visual access to our much used private walled garden patio area. The rooftop garden and seating area creates a real prospect of unacceptable noise generation. Affecting our utilities and services - gutters, down pipes, drainage etc. Potential impact on the integrity of our house by excavations etc. Impact on highway safety – distraction to drivers.

6.2 Objection received in light of the revised plans.
   • Although the private amenity element and green roof aspects have been removed from the proposed first floor extension, the effect of the proposed upper storey extension on us will actually be worse than before so we vigorously object to it.
The pitched roof raises the upper storey by a further eight feet as viewed from our only north-east facing window.

- This will block off our only north-east facing window at a distance of less than ten feet over its entire aspect. Not even a strip of sky will be visible if the extension is permitted. Although not a principal room, the area illuminated by this window is a principal area to us which is in constant use. It illuminates what would otherwise be a dark corner – safety implications.

- The aspect and outlook from this window has been enjoyed for the thirty-three years we have lived here. Lady Whitworth would have looked out of this same window. We spend a lot of time looking out of this window – it is full of memories. We often glance up at this window from the outside. We went cold at the prospect of this window being blocked off. This has greatly upset us. It is a cruel proposal and has emotional consequences. This upper storey extension is an abomination to us and will have huge consequences on our lives if permitted.

- A door could still be fitted in future to allow access onto the flat-roof as originally proposed, directly overlooking our property. People would be able to look through the window and down into our private garden / patio area.

- The Planning Authority advised the applicants to drop the proposed upper-floor extension, but they persisted with them. The applicant offered for our window to be moved or to be replaced by a sky-light.

- We are not being unreasonable and are not opposed to extensions or developments per se, provided that they are a) architecturally in keeping with it and b) do not adversely affect the other side, which this definitely does.

- Impact on internal and external amenity areas – overlooking, overshadowing and loss of light. Also, inadequate space between the proposed development and our property.

7. OFFICER APPRAISAL

7.1 The existing dwelling is an attractive stone and slate vernacular dwelling and the proposed extension is in the public realm. The relevant Policies of the Local Plan that apply to the consideration of this application are as follows:

7.2 Local Plan Policy H2 – Extensions To Dwellings, states that planning permission will be granted for extensions to existing dwellings, provided that it would not result in a detrimental impact on the character and appearance of the dwelling and its surroundings and it does not result in a significant loss of privacy or amenity for residents of neighbouring properties.

7.3 Local Plan Policy SF5 – Design And Appearance Of Development, states that planning permission will only be granted for development where the scale, density, massing, height, layout, access, materials of construction and landscaping preserves or enhances
the quality and local distinctiveness of its surroundings; it reinforces the sense of place engendered by the presence of distinctive local building styles and materials; and it is well related to surrounding properties and land uses.

7.4 Having regard to the above and from assessment of the scheme, the following material planning issues are relevant to this application:

- Design and appearance; and
- Impact on neighbouring amenity.

7.5 Design and appearance
The single-storey extension will be largely screened by the roadside boundary wall. Concerns were raised about the design and appearance of the first-floor section. However, the revised scheme incorporates coursed stone and a slate roof to match the existing dwelling. Although it has a relatively modest gable width in comparison with the other gable projections, overall, it is not now considered to have an adverse impact on the character or appearance of the house or on the surrounding area.

7.6 Impact on neighbouring amenity
The original proposal intended to have a flat, green sedum roof with a sitting out area at first-floor level. However, following the objections received from the neighbour with regard to overlooking and loss of privacy, these elements have now been removed from the scheme. It will be necessary to impose a Condition to prevent further alteration to the rear elevation to ensure that access to the flat roof does not occur in the future.

7.7 It is noted that the proposed first-floor extension will have some impact on the adjoining property. The proposed first-floor extension will be 3.1m away from the neighbour’s first-floor side-facing window. This window provides light into a landing area and allows for views to the north-east. Whilst the extension will significantly change this outlook and will be overbearing to some degree, the level of harm caused to the amenity of the neighbouring residents is not, on balance, considered to be a sufficient reason to resist this development.

7.8 Conclusion
The design and appearance of the extension does not harm the character and appearance of the dwelling and the impact on the amenity of neighbouring residents is not of a magnitude where refusal is justified. Policies H2 and SF5 of the Adopted Derbyshire Dales Local Plan (2005) are therefore considered to be complied with.

8. RECOMMENDATION
Planning Permission be granted conditionally.

1. Condition ST02a: Time Limit on Full.

2. Condition ST06: Amended Application (Revised Plans)… 15th May 2017…
   …001 and 002…
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no external alteration shall be made to the proposed extension without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reasons:

1. Reason ST02a.

2. Reason ST06.

3. For the avoidance of doubt and to protect neighbouring privacy and amenity, in accordance with Policy H2 of the Adopted Derbyshire Dales Local Plan (2005).

NOTE TO APPLICANT
This Decision Notice relates to the following documents:
Drawings numbered 001 and 002, received by the Council on 15th May 2017.

During the consideration of this application, the Local Planning Authority have engaged in a positive and proactive dialogue with the agent, which has resulted in revised proposals which overcame initial problems with the application relating to the design and appearance of the first-floor section, reflected in the amended plans.
### Ashbourne North

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<tr>
<th>Reference</th>
<th>Description</th>
<th>Location</th>
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<tbody>
<tr>
<td>ENF/14/00071</td>
<td>Unauthorised building works to facilitate a Biomass Boiler and affecting the setting of a listed building.</td>
<td>Sturston Hall Farm Mill Lane Sturston Derbyshire DE6 1LN</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/15/00014</td>
<td>Unauthorised alterations to listed building. Installation of photo voltaic panels on roof slope - Sturston Hall Farm, Ashbourne, DE6 1LN</td>
<td>Sturston Hall Farm Mill Lane Sturston Derbyshire DE6 1LN</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/17/00019</td>
<td>Unauthorised erection of timber structure in field to rear of Sunny Mount, Windmill Lane, Ashbourne, DE6 1JA</td>
<td>Sunny Mount Windmill Lane Ashbourne Derbyshire DE6 1JA</td>
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### Ashbourne South

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<tr>
<td>ENF/14/00070</td>
<td>Unauthorised internally illuminated signage above front of restaurant - 25 Dig Street, Ashbourne, DE6 1GF</td>
<td>25 Dig Street Ashbourne Derbyshire DE6 1GF</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/17/00008</td>
<td>Unauthorised development - Breach of conditions relating to planning permission 09/00207/REM. Erection of 5 two storey dwellings and associated car parking (approval of reserved matters), Olivers Mount Works, South St, Ashbourne.</td>
<td>39 South Street Ashbourne Derbyshire DE6 1DP</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/17/00030</td>
<td>Unauthorised building works to facilitate a raised platform/decking and additional fencing on land at the rear of 47 South St, Ashbourne.</td>
<td>47 South Street Ashbourne Derbyshire DE6 1DP</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/17/00038</td>
<td>Unauthorised works to listed building</td>
<td>Avanti Jewellers 2 - 4 Church Street Ashbourne Derbyshire DE6 1AE</td>
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### Brailsford

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<tr>
<td>ENF/17/00009</td>
<td>Unauthorised building works - Building does not accord with approved plans 15/00407/FUL (Part) for the erection of the freestanding garage/studio.</td>
<td>Burton Shutts Farm Cuscas Lane Brailsford Derbyshire DE6 3BG</td>
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### Carsington Water

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<tr>
<td>ENF/16/00034</td>
<td>Unauthorised erection of Dog kennels</td>
<td>Four Lane Ends Farm Gibfield Lane Hulland Ward Derbyshire DE6 3EJ</td>
<td>Pending Consideration</td>
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<tr>
<td>Reference</td>
<td>Issue</td>
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<tr>
<td>ENF/16/00073</td>
<td>Unauthorised change of use and conversion of outbuildings on land at Rock Cottage, Brassington, Matlock, Derbyshire, DE4 4HA</td>
<td>Rock Cottage Hillside Lane Brassington Derbyshire DE4 4HA</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/17/00041</td>
<td>Unauthorised change of use of land for the stationing of a static caravan for the purpose of human habitation</td>
<td>Barn At Arm Lees Farm Ryder Point Road Wirksworth Derbyshire</td>
<td>Pending Consideration</td>
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<td><strong>Clifton And Bradley</strong></td>
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<tr>
<td>ENF/17/00012</td>
<td>Unauthorised engineering works to facilitate an access and roadway across an agricultural field, in addition to an approved access and driveway, and a breach of condition 8 relating to planning permission 16/00662/FUL - Creation of new driveway.</td>
<td>Westwood Clifton Road Clifton Derbyshire DE6 2DH</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/17/00013</td>
<td>Unauthorised change of use of land from agricultural to domestic curtilage, and engineering works to create new access drive/parking area to dwelling.</td>
<td>Laurel Cottage Clifton Road Clifton Derbyshire DE6 2DH</td>
<td>Pending Consideration</td>
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<td><strong>Darley Dale</strong></td>
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<td>ENF/12/00034</td>
<td>Unauthorised demolition of a Listed wall and unauthorised access off the A6 at Dale Road North Darley Dale.</td>
<td>Stancliffe Quarry, Darley Dale, Matlock.</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/16/00071</td>
<td>Unauthorised engineering operations</td>
<td>The Beeches Hallmoor Road Darley Dale Derbyshire DE4 2HF</td>
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<tr>
<td>ENF/17/00016</td>
<td>Breach of pre commencement conditions on planning permission 15/00718/FUL Demolition of existing dwelling and barn and erection of replacement dwelling and swimming pool building.</td>
<td>Former Bent Farm Farley Hill Matlock Derbyshire DE4 5LT</td>
<td>Pending Consideration</td>
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<td><strong>Dovedale And Parwich</strong></td>
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<td>ENF/15/00065</td>
<td>Alleged change of use of pub car park to use for the stationing of vehicular mobile homes.</td>
<td>Okeover Arms Mapleton Road Mapleton Derbyshire DE6 2AB</td>
<td>Pending Consideration</td>
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<td><strong>Hulland</strong></td>
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<tr>
<td>ENF/14/00041</td>
<td>Breach of condition 2 relating to planning permission 10/00812/TEMP - Provision of temporary access for a period of 2 years - Redmire Gap, Intakes Lane, Turnditch, Derbyshire DE56 2LU</td>
<td>Redmire Gap Intakes Lane Turnditch Derbyshire DE56 2LU</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00004</td>
<td>Unauthorised engineering works including substantive excavation on land at Common Farm.</td>
<td>Common Farm Mugginton Lane End Weston Underwood Ashbourne Derbyshire DE6 4PP</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00024</td>
<td>Unauthorised change of use of holiday cabins to dwelling.</td>
<td>Blackbrook Lodge Farm Intakes Lane Turnditch Derbyshire DE56 2LU</td>
<td>Pending Consideration</td>
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<td><strong>Masson</strong></td>
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<td>ENF/11/00083</td>
<td>Unauthorised rebuilding of retaining wall.</td>
<td>24 Chapel Hill Cromford Derbyshire DE 3QG</td>
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<tr>
<td>ENF/13/00108</td>
<td>Unauthorised works to Grade II Listed Building</td>
<td>Corn Mill Cottage Water Lane Cromford Derbyshire DE 4QH</td>
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<tr>
<td>ENF/15/00054</td>
<td>Unauthorised alterations to a Grade II Listed Building.</td>
<td>Rita's Fish Bar 182 South Parade Matlock Bath Derbyshire DE4 3NR</td>
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<td>ENF/15/00104</td>
<td>Unauthorised internal works and demolition of external boundary wall.</td>
<td>Mill Managers House Christford Mill Mill Road Cromford Derbyshire DE4 3RQ</td>
<td>Pending Consideration</td>
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<td>ENF/15/00105</td>
<td>Unauthorised engineering operations to create extra parking/turning area.</td>
<td>G P Produce The Hill Cromford Derbyshire DE4 3QL</td>
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<td>ENF/16/00041</td>
<td>Unauthorised instalation of plastic windows and door.</td>
<td>2,4,6 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Notice Issued</td>
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<td>ENF/16/00090</td>
<td>Erection of a shed, decking and fence.</td>
<td>2 Primrose Cottages St Johns Road Matlock Bath Derbyshire DE4 3PQ</td>
<td>Pending Consideration</td>
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<td>ENF/16/00097</td>
<td>Unauthorised engineering operations and the creation of concrete retaining wall.</td>
<td>UK Slipform Ltd Dunsley Mill Via Gellia Road Bonsall Derbyshire DE4 2AJ</td>
<td>Pending Consideration</td>
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<td>ENF/16/00107</td>
<td>Unauthorised erection of &quot;carving&quot; building.</td>
<td>1 Black Rock Cottages Bakers Lane Cromford Derbyshire DE4 3QW</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/17/00022</td>
<td>Erection of two wooden sheds.</td>
<td>The Cottage Puddle Hill Bonsall Derbyshire DE4 2BA</td>
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<tr>
<td>ENF/17/00027</td>
<td>Unauthorised erection of a satellite dish.</td>
<td>4 Holme Villas Brunswood Road Matlock Bath Derbyshire DE4 3PA</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/17/00028</td>
<td>Engineering operations to extend a car parking area.</td>
<td>Rock View Temple Walk Matlock Bath Derbyshire DE4 3PG</td>
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<td>ENF/17/00039</td>
<td>Unauthorised installation of a new illuminated fascia sign on a Listed Building</td>
<td>136 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Pending Consideration</td>
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<td>ENF/17/00040</td>
<td>Change of use of premises from a retail sweet shop to a cafe selling hot food.</td>
<td>136 North Parade Matlock Bath Derbyshire DE4 3NS</td>
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<td>ENF/17/00045</td>
<td>Unauthorised satellite dish.</td>
<td>3 Holme Villas Brunswood Road Matlock Bath Derbyshire DE4 3PA</td>
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**Matlock All Saints**

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<tr>
<td>ENF/14/00006</td>
<td>Unauthorised change of use from domestic curtilage to use as commercial car park relating to Parkside Fitness</td>
<td>5 Olde Englishe Road Matlock Derbyshire DE4 3RR</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/15/00030</td>
<td>Unauthorised &quot;PELI&quot; advertisement</td>
<td>Peli Deli 6 Crown Square Matlock Derbyshire DE4 3AT</td>
<td>Notice Issued</td>
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</table>
ENF/15/00087  Breach of conditions on planning application number 14/00493/FUL  10 Imperial Road Matlock Derbyshire DE4 3NL  Pending Consideration

ENF/16/00014  Unauthorised fencing/decking to the side and rear with associated engineering operations.  38 Megdale Matlock Derbyshire DE4 3JW  Pending Consideration

ENF/16/00101  Unauthorised erection of sheds, chicken enclosures and a "shepherds hut".  High Croft Salts Lane Matlock Derbyshire DE4 2PA  Pending Consideration

ENF/17/00011  Erection of retaining wall at the bottom of the garden adjacent to a footpath.  64 Wellington Street Matlock Derbyshire DE4 3GS  Pending Consideration

ENF/17/00034  Demolition of dwelling.  The Lawns Cavendish Road Matlock Derbyshire DE4 3GZ  Pending Consideration

ENF/17/00043  Engineering operations to create a raised patio area.  161 Smedley Street Matlock Derbyshire DE4 3JG  Pending Consideration

Matlock St Giles

ENF/13/00084  Unauthorised erection of workshop  Phillips Woodware Smuse Lane Matlock Derbyshire DE4 5EY  Notice Issued

ENF/16/00025  1/ Unauthorised engineering operations to create an earth bund and storage of materials behind it. 2/ Rearrangement of existing bund.  Land Off Alders Lane, Tansley.  Pending Consideration

ENF/16/00046  Alleged that the stone used for the extension is not in keeping with the rest of the property as conditioned by the planning permission 14/00360/FUL  Hurst Cottage 14 Bull Lane Matlock Derbyshire DE4 5LX  Pending Consideration

ENF/16/00053  Unauthorised access off Riber Road.  Brookdale Riber Road Lea Derbyshire DE4 3JQ  Pending Consideration

ENF/16/00056  Change of use of agricultural land to the rear of 70 - 80 Starkholmes Road Matlock, to incorporate within the domestic curtilage of 72 Starkholmes Road, Matlock, DE4 3DD.  72 Starkholmes Road Matlock Derbyshire DE4 3DD  Pending Consideration

ENF/16/00089  Breaches of Planning Control  ALS Scaffolding Services Limited Sunnyside Farm Whitelea Lane Tansley Derbyshire DE4 5FL  Pending Consideration

ENF/17/00017  Breach of conditions on planning permission 16/00598/FUL - Erection of replacement dwelling and garage and retention of existing dwelling as ancillary accommodation at Pinetrees, Upper Lumsdale, Matlock.  6 Pond Cottages Upper Lumsdale Matlock Derbyshire DE4 5LB  Pending Consideration

ENF/17/00020  Unauthorised use of land for the storage and stationing of caravans.  Duke William Hotel 91 Church Street Matlock Derbyshire DE4 3BZ  Pending Consideration

Norbury
ENF/11/00091 Untidy site - storage of scrap materials (Timber, metal, pipes, bricks, slates, gravel etc), old vehicles and caravans in a state of disrepair. Land at Marston House Farm and Home Farm, Thurvaston Road, Marston Montgomery, Ashbourne, Derbyshire, DE6 2FF

ENF/13/00050 Unauthorised building works to an agricultural building. (Increasing the height).

ENF/14/00030 Change of use of land from use for Microlight flying to use for the flying of Biplane aircraft.

ENF/16/00068 Alleged breach of condition 9 relating to the slurry pit on land at Four Oaks Farm, Shields Lane, Roston.10/00580/FUL - condition 9 "The slurry lagoon hereby approved shall only be used for the storage of slurry arising from the keeping of livestock on the site and livestock kept at Pear Tree Farm, Stubwood. It shall not be used for the storage of slurry or any other waste material imported from elsewhere".

ENF/17/00015 Unauthorised engineering works to facilitate roadway onto agricultural field.

ENF/17/00024 Unauthorised building works - Building not in accordance with approved plans - 15/00779/FUL Conversion of barn to dwelling

ENF/17/00029 Unauthorised building works, in the burial grounds at the former Methodist Church, Somersal Herbert, to facilitate a kitchen area/summerhouse and tractor shed

ENF/12/00022 Unauthorised stationing of a wooden chalet building and two steel containers.

ENF/15/00068 Unauthorised change of use of land for the stationing of a caravan for residential purposes, the erection of a small timber building and the erection of a polly tunnel and portaloo.

ENF/15/00079 Works to a Listed Building

ENF/15/00082 Unauthorised engineering operations.

ENF/16/00064 Installation of plastic windows.

ENF/16/00079 Erection of timber fence over 1 metre in height adjacent a highway.

ENF/15/00090 Works to a Listed Building

ENF/15/00091 Unauthorised stationing of a wooden chalet building and two steel containers.

ENF/15/00092 Unauthorised change of use of land for the stationing of a caravan for residential purposes, the erection of a small timber building and the erection of a polly tunnel and portaloo.

ENF/15/00093 Works to a Listed Building

ENF/15/00094 Unauthorised engineering operations.

ENF/16/00095 Installation of plastic windows.

ENF/16/00096 Erection of timber fence over 1 metre in height adjacent a highway.

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**Wirksworth**

ENF/12/00022 Unauthorised stationing of a wooden chalet building and two steel containers.

ENF/15/00068 Unauthorised change of use of land for the stationing of a caravan for residential purposes, the erection of a small timber building and the erection of a polly tunnel and portaloo.

ENF/15/00079 Works to a Listed Building

ENF/15/00082 Unauthorised engineering operations.

ENF/16/00064 Installation of plastic windows.

ENF/16/00079 Erection of timber fence over 1 metre in height adjacent a highway.
| ENF/17/0002 | Unauthorised engineering operations to create a raised area | 11 New Road Bolehill Derbyshire DE4 4GL | Pending Consideration |
| ENF/17/00018 | Unauthorised works to remove a fire surround in a Grade II Listed Building. | Red Lion Hotel Market Place Wirksworth Derbyshire DE4 4ET | Pending Consideration |
| ENF/17/00023 | Breach of conditions on planning permission 14/00891/FUL | Mount Cook Adventure Centre Porter Lane Middleton By Wirksworth Derbyshire DE4 4LS | Pending Consideration |
| ENF/17/00031 | Unauthorised installation of a white plastic door and window. | 1 Cavendish Cottages Cromford Road Wirksworth Derbyshire DE4 4FP | Pending Consideration |
| ENF/17/00033 | Creation of an additional dwelling. | HotHouse Gatehouse Drive Wirksworth Derbyshire DE4 4DL | Pending Consideration |
| ENF/17/00035 | Unauthorised use of access for construction traffic and materials. | Mount Cook Adventure Centre Porter Lane Middleton By Wirksworth Derbyshire DE4 4LS | Pending Consideration |

<p>| Total Open Cases | 70 |</p>
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<thead>
<tr>
<th>Reference</th>
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<th>Outcome</th>
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<tr>
<td>ENF/12/00110</td>
<td>Unauthorised extension to dwelling - side and rear extension fronting the highway.112 Park Avenue, Ashbourne, DE6 1GB</td>
<td>112 Park Avenue Ashbourne Derbyshire DE6 1GB</td>
<td>Complied Voluntarily</td>
<td>29/03/2017</td>
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<tr>
<td>ENF/17/00005</td>
<td>Unauthorised extension to dwelling - side and rear extension fronting the highway.112 Park Avenue, Ashbourne, DE6 1GB</td>
<td>112 Park Avenue Ashbourne Derbyshire DE6 1GB</td>
<td>Complied Voluntarily</td>
<td>09/03/2017</td>
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<tr>
<td>ENF/17/00037</td>
<td>Alleged unauthorised engineering operation to clear the rear garden and create hardstanding area.</td>
<td>71 Park Avenue Ashbourne Derbyshire DE6 1GB</td>
<td>Complaint Unfounded</td>
<td>19/04/2017</td>
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<tr>
<td>ENF/16/00031</td>
<td>Breach of condition 9 relating to planning permission 14/00722/FUL - specifically the environmental and construction management plan and hours of site work.</td>
<td>Land Formerly Hillside Farm Wyaston Road Ashbourne Derbyshire DE6 1NB</td>
<td>Complied Voluntarily</td>
<td>29/03/2017</td>
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<tr>
<td>ENF/16/00103</td>
<td>Alleged replacing of timber windows for plastic, within a conservation area.</td>
<td>The White Hart Public House 8 - 10 Church Street Ashbourne Derbyshire DE6 1AE</td>
<td>Complaint Unfounded</td>
<td>08/03/2017</td>
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<tr>
<td>ENF/15/00021</td>
<td>Unauthorised change of use of land from agricultural to domestic. Engineering works to remove trees and hedging to facilitate hardstanding area including the erection of a boundary fence in excess of 1m high adjacent to a classified vehicular highway.</td>
<td>Orchard Cottage Longford Lane Longford Derbyshire DE6 3DT</td>
<td>Complied Voluntarily</td>
<td>07/03/2017</td>
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<tr>
<td>ENF/15/00097</td>
<td>Unauthorised construction of timber cabin and subsequent occupation as a dwelling house with associated use of land as domestic curtilage.</td>
<td>Aragorn Cabin Mercaston Lane Mercaston Derbyshire</td>
<td>Appeal Allowed</td>
<td>21/12/2016</td>
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<tr>
<td>ENF/16/00033</td>
<td>Breach of condition 16 (hours of work) of planning permission 13/00826/FUL - Land off Luke Lane Brailsford</td>
<td>Land Off Luke Lane Luke Lane Brailsford Derbyshire</td>
<td>Complaint Unfounded</td>
<td>02/02/2017</td>
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<tr>
<td>ENF/16/00106</td>
<td>Unauthorised change of use of agricultural land to use for the storage of a shipping container on land known as &quot;Rick Yard Orchard&quot;, Church Lane, Brailsford.</td>
<td>Rick Yard Orchard Church Lane Brailsford Derbyshire</td>
<td>Complied Voluntarily</td>
<td>10/03/2017</td>
</tr>
<tr>
<td>ENF/15/00108</td>
<td>Non compliance with approved plans &quot;Erection of two dwellings&quot; at Peakland View, Darley Dale, office code 14/00300/FUL</td>
<td>Robinsons Limited Longcliffe Works Longcliffe Brassington Derbyshire DE4 4HN</td>
<td>Complied Voluntarily</td>
<td>08/03/2017</td>
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<tr>
<td>ENF/16/00099</td>
<td>Unauthorised erection of external flu pipe on building fronting a highway and within the conservation area of Hopton.</td>
<td>Henmore Grange Main Street Hopton Derbyshire DE4 4DF</td>
<td>Complied Voluntarily</td>
<td>11/01/2017</td>
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<tr>
<td>ENF/17/00010</td>
<td>Unauthorised building/demolition works</td>
<td>Palm Tree Cottage Hillside Lane Brassington Derbyshire DE4 4HL</td>
<td>Planning Application Received</td>
<td>26/04/2017</td>
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**Clifton And Bradley**

| ENF/16/00095 | Unauthorised building works for the conversion of outbuildings to living accommodation. | Charity Farm Orchard Lane Wyaston Derbyshire DE6 2DR | Planning Application Received | 02/02/2017 |
| ENF/17/00036 | Confirmation of satisfactorily complying with terms and conditions of s.106 relating to planning permission 05/00759/OUT - Waterside Park Development, Former Nestle' Factory, Ashbourne | Waterside Park Waterside Road Ashbourne Derbyshire | Not in the Public interest to pursue | 11/04/2017 |

**Darley Dale**

| ENF/13/00022 | Expiration of temporary planning permission. Erection of mobile home/chalet for agricultural worker for a temporary period of 3 years and retention of existing amenity building/office. | Woodside Farm Buildings Back Lane Darley Moor Matlock Derbyshire DE4 5LP | Appeal Allowed | 08/03/2017 |
| ENF/15/00034 | Stationing of a caravan on land for suspected residential purposes and the use of an agricultural building for the keeping of horses. | Land At The Junction Of Back Lane And Flash Lane, Darley Moor, Matlock. | Not in the Public interest to pursue | 29/03/2017 |
| ENF/16/00052 | Creation of earth bund in a field to the south of Bent Farm. | Ameycroft Farm Farley Hill Matlock Derbyshire DE4 5LR | Complied Voluntarily | 20/12/2016 |
| ENF/16/00055 | Unauthorised engineering works to facilitate caravan hardstanding pitches | Tax Farm Farley Lane Farley Derbyshire DE4 5LQ | Planning Application Received | 08/03/2017 |
| ENF/16/00092 | Engineering operations to create a car park. | Milners Off Road Limited Old Road Darley Dale Derbyshire DE4 2ER | Planning Application Received | 23/01/2017 |
| ENF/17/00044 | Alleged use of property for car and motorcycle repairs. | 47 Painters Way Two Dales Derbyshire DE4 2SB | Complaint Unfounded | 22/05/2017 |

**Doveridge And Sudbury**
<table>
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<tr>
<th>Enquiry Reference</th>
<th>Description</th>
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<tr>
<td>ENF/13/00019</td>
<td>Unlawful siting of caravan for human habitation in agricultural field adjacent to Marston Lane at Doveridge.</td>
<td>Land North East Of Holmlea Farm Bungalow Marston Lane Doveridge Derbyshire</td>
<td>Notice complied with 30/01/2017</td>
</tr>
<tr>
<td>ENF/17/00003</td>
<td>Unauthorised building works relating to planning permission 15/00459/FUL. Building not built in accordance with approved plans. Also the demolition of an existing double garage and erection of new garage with accommodation above and link to newly built timber clad building. (15/00459/FUL).</td>
<td>81 Aston Lane Sudbury Derbyshire DE6 5HG</td>
<td>Planning Application Received 09/05/2017</td>
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<tr>
<td><strong>Hulland</strong></td>
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<td>Winney Hill Farm Hob Lane Kirk Ireton Derbyshire DE6 3LG</td>
<td>Planning Application Received 02/02/2017</td>
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<tr>
<td>ENF/16/00043</td>
<td>Unauthorised engineering works on land at Whinney Hill Farm</td>
<td>Winney Hill Farm Hob Lane Kirk Ireton Derbyshire DE6 3LG</td>
<td>Planning Application Received 02/02/2017</td>
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<td><strong>Masson</strong></td>
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<td>101 The Hill Cromford Derbyshire DE4 3QU</td>
<td>Notice complied with 10/01/2017</td>
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<tr>
<td>ENF/15/00052</td>
<td>Installation of plastic windows in a listed building.</td>
<td>Swifts Cottage 15 The Hill Cromford Derbyshire DE4 3RF</td>
<td>Notice complied with 15/02/2017</td>
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<tr>
<td>ENF/15/00060</td>
<td>Unauthorised installation of two roof-lights and flue on the rear roof slope.</td>
<td>The Farrow's Chestnut Farm Abel Lane Bonsall Derbyshire</td>
<td>Planning Application Received 29/03/2017</td>
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<tr>
<td>ENF/16/00024</td>
<td>Unauthorised occupation of holiday let as residential dwelling.</td>
<td>The Farrow's Chestnut Farm Abel Lane Bonsall Derbyshire</td>
<td>Planning Application Received 29/03/2017</td>
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<tr>
<td>ENF/16/00028</td>
<td>Unauthorised erection of fence within the curtilage, at the rear, of a Grade II Listed Building.</td>
<td>86 The Hill Cromford Derbyshire DE4 3QU</td>
<td>Planning Application Received 29/03/2017</td>
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<tr>
<td>ENF/16/00037</td>
<td>Unauthorised extension to property.</td>
<td>1 Water Lane Cromford Derbyshire DE4 3QH</td>
<td>Planning Application Received 24/05/2017</td>
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<tr>
<td>ENF/16/00063</td>
<td>Change of Use of premises to Cafe</td>
<td>Restoration Cafe Former Tourist Information Centre Grand Pavilion South Parade Matlock Bath Derbyshire DE4 3NR</td>
<td>Complaint Unfounded 16/05/2017</td>
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<tr>
<td>ENF/16/00066</td>
<td>Alledged unauthorised building works to rear of property. - 138-142 North Parade, Matlock Bath, Derbyshire, DE4 3NS</td>
<td>Kostas Restaurant 138 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Not in the Public interest to pursue 29/03/2017</td>
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<tr>
<td>ENF/16/00076</td>
<td>Unauthorised &quot;mini fish, chips &amp; peas&quot;banner on railings.</td>
<td>Halls Merry Go Round 200 South Parade Matlock Bath Derbyshire DE4 3NR</td>
<td>Complied Voluntarily 29/03/2017</td>
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<tr>
<td>ENF/16/00078</td>
<td>Works to clad a bus stop in stone.</td>
<td>Bus Stop Near To The Fountain. Bonsall.</td>
<td>Complied Voluntarily 29/03/2017</td>
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<tr>
<td>ENF/16/00084</td>
<td>Unauthorised banner advertisements.</td>
<td>RIVA 124 - 126 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Complied Voluntarily 01/02/2017</td>
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<td>ENF/17/00025</td>
<td>Alleged unauthorised ride/attraction.</td>
<td>Gullivers Kingdom Temple Road Matlock Bath Derbyshire DE4 3PG</td>
<td>Complaint Unfounded</td>
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<tr>
<td>ENF/17/00032</td>
<td>Alleged new blockwork wall.</td>
<td>Masson Road Matlock Bath</td>
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<tr>
<td><strong>Matlock All Saints</strong></td>
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<tr>
<td>ENF/16/00015</td>
<td>Breach of condition 2 on planning permission (office code)</td>
<td>19 Dale Road Matlock Derbyshire DE4 3LT</td>
<td>Not in the Public interest to pursue</td>
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<tr>
<td>ENF/16/00038</td>
<td>Unauthorised erection of fences and alleged car sales business.</td>
<td>2 Bentley Close Matlock Derbyshire DE4 3GF</td>
<td>Complied Voluntarily</td>
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<tr>
<td>ENF/16/00093</td>
<td>Breach of condition relating to Tree protection on land off Bakewell Road at Matlock</td>
<td>McDonald's 43 Bakewell Road Matlock Derbyshire DE4 3AU</td>
<td>Not in the Public interest to pursue</td>
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<tr>
<td>ENF/16/00098</td>
<td>Unauthorised side extension.</td>
<td>21 Imperial Road Matlock Derbyshire DE4 3NL</td>
<td>Planning Application Received</td>
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<tr>
<td>ENF/17/00006</td>
<td>Unauthorised erection satellite dish.</td>
<td>12 Snitterton Road Matlock Derbyshire DE4 3LZ</td>
<td>Complied Voluntarily</td>
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<td><strong>Matlock St Giles</strong></td>
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<tr>
<td>ENF/15/00083</td>
<td>Non compliance with pre-commencement conditions attached to planning permission (15/00453/FUL)</td>
<td>Gate Inn The Knoll Tansley Derbyshire DE4 5FN</td>
<td>Complied Voluntarily</td>
</tr>
<tr>
<td>ENF/16/00057</td>
<td>Change of use of agricultural land to the rear of 76 - 78 Starkholmes Road Matlock, to incorporate within the domestic curtilage of 78 Starkholmes Road, Matlock, DE4 3DD.</td>
<td>78 Starkholmes Road Matlock Derbyshire DE4 3DD</td>
<td>Complaint Unfounded</td>
</tr>
<tr>
<td>ENF/16/00102</td>
<td>Unauthorised excavation of front garden and tipping of excavated material in the rear garden.</td>
<td>157 Hurst Rise Matlock Derbyshire DE4 3EU</td>
<td>Not in the Public interest to pursue</td>
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<tr>
<td>ENF/17/00014</td>
<td>Breach of condition relating to builders parking outside the site on planning permission 15/00200/FUL</td>
<td>1 Hawleys Close Matlock Derbyshire DE4 5LY</td>
<td>Complied Voluntarily</td>
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<tr>
<td>ENF/17/00021</td>
<td>Alleged non compliance with Certificate of Lawful Proposed Development.</td>
<td>7 Asker Lane Matlock Derbyshire DE4 3FY</td>
<td>Complaint Unfounded</td>
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<td><strong>Stanton</strong></td>
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<tr>
<td>ENF/16/00067</td>
<td>Unauthorised erection of a timber fence adjacent to a highway.</td>
<td>2 River View Dale Road North Darley Dale Derbyshire DE4 2HX</td>
<td>Not in the Public interest to pursue</td>
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<tr>
<td>ENF/16/00086</td>
<td>Unauthorised erection of an oversized fence adjacent to a highway.</td>
<td>1 River View Dale Road North Darley Dale Derbyshire DE4 2HX</td>
<td>Not in the Public interest to pursue</td>
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<td>ENF/16/00040</td>
<td>Unauthorised satellite dish.</td>
<td>21 North End Wirksworth Derbyshire DE4 4FG</td>
<td>Complied Voluntarily</td>
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<tr>
<td>ENF/16/00059</td>
<td>Unauthorised alterations to a Listed Building.</td>
<td>The Old Manse Coldwell Street Wirksworth</td>
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<td>Derbyshire DE4 4FB</td>
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<td>ENF/16/00080</td>
<td>Engineering operations in a field to create a pond.</td>
<td>2 Little Bolehill Bolehill Derbyshire DE4 4GR</td>
<td>Planning Application Received</td>
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<tr>
<td>ENF/16/00104</td>
<td>Alleged unauthorised smoking shelter</td>
<td>Red Lion Hotel Market Place Wirksworth</td>
<td>Complaint Unfounded</td>
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<td>Derbyshire DE4 4ET</td>
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<tr>
<td>ENF/17/00001</td>
<td>Unauthorised occupation of The Chalet</td>
<td>The Chalet Millers Green Wirksworth Derbyshire DE4 4BL</td>
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**Total Closed Cases:** 52
PLANNING APPEAL – PROGRESS REPORT

Report of the Corporate Director

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<th>TYPE</th>
<th>DECISION/COMMENT</th>
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<tr>
<td>16/00095/OUT</td>
<td>Babbs Lane, Doveridge</td>
<td>PI</td>
<td>Appeal being processed</td>
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<tr>
<td>16/00066/FUL</td>
<td>Ley Hill House, Brocksford, Doveridge</td>
<td>WR</td>
<td>Appeal allowed – copy of appeal decision attached</td>
</tr>
<tr>
<td>16/00411/FUL</td>
<td>37 Windmill Lane, Ashbourne</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>16/00429/S106M</td>
<td>37 Windmill Lane, Ashbourne</td>
<td>WR</td>
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<tr>
<td>16/00220/FUL</td>
<td>The Ostrich, Longford</td>
<td>HEAR</td>
<td>Appeal allowed – copy of appeal decision attached</td>
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<tr>
<td>16/00738/PDA</td>
<td>Winson Farm, Blind Lane, Kirk Ireton</td>
<td>WR</td>
<td>Appeal dismissed – Copy of Appeal Decision attached.</td>
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<tr>
<td>16/00381/FUL</td>
<td>Land to the west of Hallcroft Farm, Marsh Hollow, Hollington</td>
<td>HEAR</td>
<td>Appeal dismissed – copy of appeal decision attached.</td>
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<tr>
<td>ENF/15/00065</td>
<td>Land at The Okeover Arms, Mappleton Road, Mappleton</td>
<td>WR</td>
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<td>16/00780/OUT</td>
<td>Land to the east of Derby Road, Doveridge</td>
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<td>16/00567/OUT</td>
<td>Land off Main Road, Brailsford</td>
<td>HEAR</td>
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<td>17/00030/FUL</td>
<td>The Old Cottage, Main Street, Kirk Ireton</td>
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<td>T/16/00066/TPO</td>
<td>Garnsgate, 42 Summer Lane, Wirksworth</td>
<td>WR</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
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<td>16/00041/OUT</td>
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<td>Mill Managers House, Mill Road, Cromford</td>
<td>PI</td>
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<tr>
<td>16/00913/OUT</td>
<td>Land adjacent to Thatchers Lane, Tansley</td>
<td>WR</td>
<td>Appeal being processed</td>
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</table>

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

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decision

Site visit made on 24 January 2017

by Elaine Benson  BA (Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31st May 2017

Appeal Ref: APP/P1045/W/16/3156818
Ley Hill House, Brocksford, Doveridge, Ashbourne, Derbyshire DE6 5PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Teresa Waterfall against the decision of Derbyshire Dales District Council.
- The application Ref 16/00066/FUL, dated 25 January 2016, was refused by notice dated 4 May 2016.
- The development proposed is the change of use of 4 rooms from residential (C3) to hairdressing salon (A1).

Decision

1. The appeal is allowed and planning permission is granted for the change of use of 4 rooms from residential (C3) to hairdressing salon (A1) at Ley Hill House, Brocksford, Doveridge, Ashbourne, Derbyshire DE6 5PA, in accordance with the terms of the application, Ref 16/00066/FUL, dated 25 January 2016.

Preliminary Matters

2. The proposal originally included using the premises as a hairdressing salon and training academy. The appellant confirmed in the appeal submissions that the academy element has been deleted from the proposal and consent is now sought only for a hairdressing salon as described in the heading above. I have dealt with the appeal on this basis. The use has commenced.

3. Since the Council’s determination of the planning application, the emerging Local Plan 2015-17 (ELP), has further advanced in the process towards adoption and is now at local plan examination level. Its policies can therefore be given more weight than when the appeal application was determined.

Main Issues

4. The main issues in this appeal are the effect of the hairdressing salon use on its countryside location, including its sustainability and whether it harms the viability and vitality of town and local district centres.

Reasons

5. Ley Hill House is a large house in the countryside, some 1 mile east of Doveridge, a small village which contains a shop, school and village hall. There are other commercial uses nearby, including a beauty and holistic therapy salon at Brocksford Farm and an agricultural merchant at Ley Hill Farm.
6. The appellant's son is the hairdressing salon manager and lives at Ley Hill House. Four ground floor rooms are in use as a hairdressing salon. There are 2 full time and 1 part time members of staff. Clients arrive by appointment only.

Effect on the Countryside

7. In considering whether the scheme is contrary to the aims of saved Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005)(LP); it is agreed that the salon use does not serve the essential requirements of agriculture, forestry, outdoor sport or recreation nor assist the growth of tourism. Furthermore, the use is not part of a farm-based diversification scheme, nor does the scheme provide for other needs which can only be met in a rural area. The proposal therefore conflicts with those aspects of Policy SF4 which deal with the types of development permitted in the countryside. However, I conclude that in principle the proposal represents the acceptable reuse or adaptation of the existing rural building, is appropriate in scale to the rural area and would have no adverse impact on the local environment. It therefore complies with these aspects of Policy SF4.

8. It is also necessary to consider whether Policy SF4 is consistent with the guidance within the National Planning Policy Framework (the Framework). The Framework states in Paragraph 28 that ‘Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should...support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings’.

9. In my judgement saved Policy SF4 is more restrictive than the national guidance as it does not support all types of business and enterprise in rural areas as the Framework states. The hairdressing use encourages economic growth in a rural area, including by providing employment. The appeal proposal would amount to the sustainable growth of a business in a rural area and includes the conversion of part of the listed Ley Hill House, as supported by the Framework and local policies. I therefore conclude that the proposal complies with national guidance which is more up to date than the saved policy and can therefore be given significant weight in this decision.

10. Furthermore, emerging Policy S5 Development in the Countryside of the ELP indicates that outside defined settlement boundaries, the Council will seek to ensure that new development is strictly controlled to protect and enhance the landscape's intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment and the setting of the Peak District National Park, whilst also facilitating sustainable rural community needs, tourism and economic development. Among other things, the policy indicates that planning permission will be granted for the conversion of existing buildings for employment use, provided it is appropriate to its location and does not have an adverse impact on the character and appearance of the rural area. The emerging policy also states that appropriate rural employment development comprises home working, commercial enterprises and live-work units, where a rural location can be justified.

11. I find that LP Policy S5 encourages rural employment and homeworking to a degree that more closely aligns with national guidance than saved Policy SF4. The emerging policy can therefore be given some weight in this decision. I note
that this policy only supports relevant development where a rural location can be justified and where homeworking is incidental to the residential occupation of the dwellinghouse. However in my judgement the proposal can be considered to be a small scale commercial enterprise to which the emerging policy also applies. Among other things, ELP Policy EC1 supports the reuse of rural buildings for development which supports the rural economy, subject to environmental and locational considerations addressed elsewhere in this decision. This emerging policy therefore provides further support for the appeal proposal.

**Effect on Town Centres**

12. The Council refers to ELP Policy EC1, stating that it must be afforded the same weight as ELP Policy S5. This policy deals with new employment development, focusing retail uses in town centres to support their vitality. It cites the support for this objective in the Framework.

13. Among other uses, Paragraph 28 of the Framework promotes ‘the retention and development of local services and community facilities in villages’, continuing in Paragraph 24 that a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. However Paragraph 25 states that ‘this sequential approach should not be applied to applications for small scale rural offices or other small scale rural development’. The proposed use comes under the latter category and is not therefore subject to the sequential approach.

14. Furthermore, there is no convincing evidence that the use of part of the appeal property as a hairdressing salon is detrimental to the vitality and viability of town and local service centres. Hairdressing could be considered important to a thriving rural community and in this case is of a small scale which would not draw people away from town or local service centres to the detriment of their viability and vitality. Whilst I note that it supports town centres, the Framework should be read as a whole and I consider that in this appeal the Framework’s support for rural enterprise as set out above carries more weight in this decision.

15. I note the Council’s views on the use as a training academy but this matter is not now before me.

**Locational Sustainability**

16. Ley Hill House is set back from Derby Road which is National Cycle Route 549 and there are 2 bus stops located approximately 100 m and 300 m from the site, although there is no dedicated footway to reach them. I note the evidence of the bus service. However, due to its rural location there is limited access to the appeal site by foot, cycle and public transport. It is more likely to be reached by car by both clients and staff, with the exception of the on-site manager.

17. Paragraph 29 of the Framework states that ‘transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives…. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government...”
recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas’.

18. Within this context and having had regard to the small scale of the salon use, the guidance within the Framework and the rural surroundings, it is important to recognise that people living in rural locations are often dependent on cars and other means of travel are limited. I do not consider that the proposal is unsustainable in locational terms to a degree that would warrant dismissing the appeal. Under these circumstances there is no conflict with ELP Policy EC1 which, in addressing new employment development, can be summarised as seeking to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.

Other Matters

19. The main house is a late 18th century Grade II listed property. No structural or other changes affecting the character and appearance of the listed building are proposed and the Council has not therefore required the submission of an application for listed building consent. There are no reasons to disagree with this approach.

20. ELP Policy PD2 seeks to prevent the loss of buildings and features which make a positive contribution to the character or heritage of an area through preservation or appropriate re-use and sensitive development. Furthermore, saved LP Policies NBE16 and NBE18 support development that involves the conversion and change of use of listed buildings, where the original use is no longer viable and, if the proposed use is not the original use, it is appropriate to the status of the listed building. These policies require that development should not have an adverse impact on the special character of the listed building. The development has not affected the structure or fabric of Ley Hill House and accordingly there is no effect on the special character and appearance of the listed building. I agree with the Council that there is no conflict with saved Policies NBE 16 and NBE18.

21. ELP Policy S5 also supports proposals for enabling development that is required in order to maintain a heritage asset of acknowledged importance in accordance with ELP Policy PD2. Whilst the salon use could not be strictly described as enabling development, it has led to the continued occupation of all of Ley Hill House where the appellant's family have lived for many years. However, it is large and has become difficult to maintain. I am informed that the commercial use of part of the ground floor enables the family to continue to live in the property.

22. Furthermore, the salon use would enable the public to see and appreciate the interior of the listed wing and the building’s surroundings. Whilst these factors are not determinative matters in this appeal, they add positive weight.

Conclusion

23. I have determined this appeal against the Framework’s Core Principle relating to rural areas. The Framework requires recognition of the ‘intrinsic character and beauty of the countryside’ and supports thriving communities within it.

24. The hairdressing salon use is not fully consistent with the policies of the development plan and emerging development plan in respect of their
requirements for a rural location to be justified for proposed uses. However, greater weight is given to the Framework in this appeal than to these relevant LP or ELP policies. On this basis I conclude that the hair salon use is acceptable and a sustainable form of development in the countryside. It does not harm the intrinsic character and beauty of the countryside or the viability or vitality of nearby town or district centres.

25. The appeal proposal has resulted in the re-use of part of an existing listed building whilst having no negative impact on its character, appearance or surroundings which are preserved. The use has no detrimental impact on the local community or the character of the area. I further conclude that within its rural context the appeal site is adequately accessible and does not constitute an unsustainable form of development in this regard. The adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Accordingly the appeal should be allowed.

Conditions

26. The Council has suggested imposing the standard time limit condition which is not required as the use has already commenced. A condition is recommended by the Council which requires applications for planning permission or listed building consent to be sought in the event of any building works being proposed. There is a statutory requirement for consent to be sought for such works; therefore there is no need to apply the suggested condition. No other conditions have been identified and none are necessary.

Elaine Benson

INSPECTOR
Appeal Decision

Hearing held on 21 February 2017
Site visit made on 21 February 2017

by Rachel Walmsley BSc MSc MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 May 2017

Appeal Ref: APP/P1045/W/16/3163696
The Ostrich Inn, Longford, Derby DE6 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by New River Property Trust No 4 against the decision of Derbyshire Dales District Council.
- The application Ref 16/00220/FUL, dated 17 March 2016, was refused by notice dated 27 May 2016.
- The development proposed is change of use of existing public house (A4) to form a single residential property (C3).

Decision

1. The appeal is allowed and planning permission is granted for change of use of existing public house (A4) to form a single residential property at The Ostrich Inn, Longford, Derby DE6 3AH in accordance with the terms of the application, Ref 16/00220/FUL, dated 17 March 2016, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by New River Property Trust against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Main Issue

3. This is whether the loss of the public house and its conversion to a dwelling would unacceptably compromise the provision of community facilities in the area, with particular regard to planning policy.

Reasons

4. Saved policy S12 of the Local Plan\(^1\) seeks to avoid the loss of important local services and facilities and is in two parts. The loss of a service or facility is subject to there being adequate alternative facilities in the locality or the applicant demonstrating that the existing use is no longer financially or commercially viable and there are no other viable means of maintaining the existing use. In light of paragraph 215 of the National Planning Policy Framework (the Framework), the weight attributed to policy is dependent on the consistency of the policy with the Framework. The Framework, at

\(^1\) Derbyshire Dales Local Plan (November 2005)
paragraph 70, seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs. Whilst the criteria for assessing the appropriateness of loss differ, the overriding aims of saved policy S12 and paragraph 70 are the same; to prevent the loss of facilities that are important to the community. For this reason policy S12 is largely consistent with the Framework and as a result I give moderate weight to it.

5. In refusing the planning application, the Council considered the proposal contrary to the second part of saved policy S12 relating to viability, on the basis that insufficient information had been submitted with the planning application to determine if the existing public house is no longer financially or commercially viable, or that there are no other means of maintaining the existing use.

6. The Ostrich Inn traded as a traditional rural pub supporting a wide range of activities including a music festival and bonfire night celebrations and benefitted from the adjoining field as a caravanning and camping site. The public house’s long term tenancy has since ceased, as have the activities. Since this tenancy ceased there have been a succession of tenants and evidence shows that since 2013 there have been repeated months when the takings have not exceeded £4000/month. When accounting for the deductions needed to cover costs such as the cost of capital and insurance, a return on capital of up to 20%, which is expected by most pub operators, is not being made. During the summer months operations have been more profitable, however, the average takings over the year remain insufficient to generate the profit demanded by pub operators.

7. The most recent tenant operates at the premises on a select number of evenings in the week and on Saturday and Sunday afternoons and evenings and serves food and drink. The tenant is supported by Marston’s who pays the gas and electricity bills and supplies the beer with a percentage of the turnover being given to the tenant to cover costs such as wages and bills. For the Ostrich Inn, this percentage is in the region of 30%; in excess of 17%-20% which is more typical of the support that Marston’s offers. Current operations are therefore heavily supported by Marston’s with insufficient profits being made to sustain the business.

8. Food is currently served at the Ostrich Inn via an extensive menu. Evidence of the revenue from food was unavailable. The appellant explained that through a recent marketing exercise a food-led pub operator concluded that there is an insufficient catchment to support a pub focused on food, particularly given the competition from a growing number of gastro-pubs within the locality. The size of the catchment required was not stated, however, the Inn is within the open countryside and serves a modest sized population which implies limited trade. Furthermore, there is strong competition from surrounding pubs; the Red Lion, just over 1 mile from the Ostrich Inn serves food within a recently refurbished restaurant; the Three Horseshoes, just over 1.5 miles away from the appeal site has recently re-invented itself, serving high end food and drink; and The Saracens Head, just over 2 miles away is a country gastro-pub.

9. The option to run the premises as a competitive gastro-pub was considered. To do so would require a significant investment in the premises; not least to enlarge the kitchen and bar area to create the space needed for a pub that
specializes in high-end beer and food. When taking into account the limited catchment and local competition, a gastro-pub presents a high risk to a potential investor. Food alone, therefore, would not be a viable means to maintain the existing use.

10. Consideration has been given to refurbishing the premises to create a more attractive offer. It is estimated that an investment of over £300,000 would be required to put the Inn into a reasonable state of repair and therefore attract greater custom. To achieve a return on capital of up to 20%, a clear profit of £5000/month would be required over 5 years. Given the difficulty in sustaining takings of £4000/month before costs, a clear profit of £5000/month is ambitious and therefore refurbishment alone is not a viable option.

11. Using the premises as a bed and breakfast and reinstating the field for camping are reported to have been explored but to no avail. It is reasonable to surmise that the costs of making physical changes to the premises for a bed and breakfast, together with the additional costs of obtaining planning permission present a risk to a potential investor. However, as with the option to raise an income from the camping field, there is insufficient evidence before me to rule out these options as ways to maintain the existing use. I attach little weight, therefore, to these options in support of the requirement in saved policy S12 to identify no other viable means of maintaining the existing use.

12. The first part of saved policy S12 seeks to ensure that the development would not result in the loss of an important local facility or service unless there are adequate alternative facilities in the locality. It is necessary, therefore, to first establish the importance of the Ostrich Inn as a local facility.

13. The Inn is designated as an Asset of Community Value (ACV). The threshold for designating an ACV is relatively low with the local authority needing to have a realistic belief that the facility has a community use that could continue. The weight I attach to the designation of the premises as an ACV, therefore, is limited. Notwithstanding this, the ACV refers to a variety of activities that have taken place at the Inn in the past, including British Legion meetings, local bonfire night celebrations and being host to dominoes teams and the local elections. These activities have now ceased; in part as a result of changing tenancies. At the time of the hearing a pub quiz was imminent with seven people expected to attend. Beyond this, little in the way of community activities were taking place; instead there was hope that the activities would return if the premises could be invested in.

14. Concerns expressed by residents state that the Inn is a valuable public meeting place and a place where people enjoy a drink. I have no details before me on the nature and frequency of the meetings to conclude that the Inn is used regularly for meetings. Indeed, the function room is in a state of disrepair and is not conducive to meetings. Furthermore, whilst I have no doubt that residents do enjoy a drink at the Inn, the financial information does not demonstrate that it generates sufficient trade to make the business viable.

15. The Inn is within the open countryside and is therefore not within the heart of the village. Although accessible on foot from the village via public footpaths, the footpaths are, at times, difficult to follow, with sections poorly marked and the ground uneven and muddy. An alternative route on surrounding roads is unlit and hazardous; the lack of footpaths and the lack of fast moving traffic makes the route undesirable for pedestrians. The Inn is not, therefore, in a
location where the community can access it readily, other than by motor car, to meet their day-to-day needs.

16. A limited number of objections relative to the size of the community\(^2\) were received in response to the planning application. A petition of over eighty signatures was submitted in response to the appeal, however only a small number of these signatures relate to residents who live locally.

17. In all, the evidence does not indicate that the Inn is an important local facility. During successive tenancies, activities have moved to other premises within the locality; darts are played at another public house, voting takes place at the local school and meetings are held in the local Pump House and at the Red Lion. There is no evidence to suggest that these alternative facilities are inadequate to meet the needs of the local community, furthermore, there was no indication that the activities that have ceased are dependent on the Inn being a viable business for them to return. In all, I find that there are adequate alternative facilities in the locality.

18. Returning to saved policy S12, I have found that there are adequate alternative facilities in the locality and therefore the proposal would comply with the first part of saved policy S12. I have also found that the existing use is no longer financially or commercially viable but other viable means of maintaining the existing use have not been demonstrated satisfactorily. The requirement in saved policy S12 is that a proposal complies with one or other of the two parts. Having found that the proposed change of use would comply with the first part of saved policy S12, I find no conflict with the development plan to consider dismissing the appeal on these grounds and in light of the policy’s consistency with the Framework, I attach moderate weight to this.

Other considerations

19. The Council draws attention to the supporting text to policy S12 which states that as part of their submissions for planning permission applicants will be required to demonstrate the extent to which they have marketed the business as a going concern. A High Court decision\(^3\) confirms that something in the supporting text, if not referred to in the policy itself, cannot have the same force as a policy. The weight that I can give to the need for a marketing campaign, therefore, is equally limited. Since February 2016 the Ostrich Inn has been marketed, initially on a leasehold basis and then a freehold. The appellant reported that marketing was open ended with no guide price stated and advertising cast widely via mailshots, websites and targeted advertising to pub operators, including independent pub operators which the appellant identified as the premises potentially suiting. A number of people made enquiries and visited the property but no second viewings were requested. Interested parties raised concerns relating to viability; that the costs of refurbishment were high, the catchment area is small and borrowing would be difficult given the unviable nature of the business. Consequently no bids had been made to close the marketing exercise. Whilst I have no reason to doubt the appellant’s assertions, I do not have evidence of the marketing campaign, beyond the particulars of the property, to be satisfied that the appellant has

\(^2\) 10 objections out of a local population of 349 were received in response to the planning application.

\(^3\) Cherkley Campaign Ltd, R (on the application of) v Mole Valley District Council & Anor [2014] EWCA Civ 567 (07 May 2014) (paragraph 16).
demonstrated satisfactorily the marketing of the property as a going concern. However, given the limited weight attached to this requirement, the conflict with policy S12 is limited in this regard.

20. My attention is also drawn to policy HC15 of the Draft Local Plan\(^4\). The Draft Local Plan has been subject to consultation but awaits an examination and therefore I can attach limited weight to its policies. Policy HC15 is in two parts; the first part supports proposals that protect, retain or enhance existing community facilities; the second part states that where development involves the loss of a community asset or facilities...including public houses (and) Assets of Community Value, it must be demonstrated that (a) there is evidence to demonstrate that the existing use is no longer needed to serve the needs of the community, (b) the existing facility is no longer commercially viable, as demonstrated through a marketing exercises (as detailed) and (c) the use of the facility has been offered to the local community for their acquisition/operation at a realistic price. I have found that the use of the Ostrich Inn as a public house is no longer needed to serve the needs of the community. It has not been demonstrated that the marketing exercise carried out was for a continuous period of 12 months, nor offered to the local community. I find, therefore, that the proposal would conflict with policy HC15, although the weight I attach to this conflict is limited.

21. Paragraph 28 of the Framework promotes the retention and development of local services and community facilities in villages. As the Inn is located in the open countryside, east of the village of Longford, paragraph 28 does not apply.

22. The proposed development would include no external alterations and therefore would not impact on the character and appearance of the surrounding area or on the Longford Conservation Area. The Council raised no objection to the siting or design of the proposal and in the absence of any evidence to suggest otherwise, I concur. Any subsequent amendments to the development proposed and that require planning permission would be subject to a planning application and further consultation with the local community. Until such time the matter of character and appearance does not carry any weight in my decision.

**Conditions**

23. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. In addition to the standard time limitation for commencement, I have imposed a condition requiring the submission and approval of landscaping details in the interests of the character and appearance of the area.

**Balancing and Conclusion**

24. Contrary to the Council’s view I have found that the existing use is no longer financially or commercially viable although the limited weight to the alternative options to maintain the existing use means that the proposal would not be wholly compliant with the second part of saved policy S12. I have, however, found that there are adequate alternative facilities in the locality and therefore the proposed development would comply with the first part of saved policy S12.

\(^4\) Deposit Draft Derbyshire Dales Local Plan (August 2016)
25. The reading of saved policy S12 is such that a proposed development needs to comply with one part or other of the policy, not both. As the development would comply with the first part of the policy, the development would accord with the development plan, although the weight given to this in light of the policy’s compliance with the Framework is moderate. In light of the limited weight afforded to the other considerations, I find no substantive reason to dissuade me from my findings that the development would be compliant with the development plan.

26. In coming to this conclusion I have taken into account the sentiments expressed by local residents for the loss of the Inn, however, the Inn is clearly not viable. When considering the proposal against planning policy, the proposal would not unacceptably compromise the provision of community facilities in the area or unacceptably reduce the community’s ability to meet its day-to-day needs. The proposal would not, therefore, be contrary to saved policy S12 or paragraph 70 of the Framework. For this reason the appeal is allowed.

R Walmsley
INSPECTOR

CONDITIONS SCHEDULE

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.

2. Prior to the occupation of the premises as a single dwelling a scheme for hard and soft landscape works relating to the curtilage of the dwelling shall be submitted to and approved in writing by the local planning authority. These details shall include:
   a. all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
   b. measures for the protection of retained vegetation during the course of development;
   c. all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
   d. finished site levels and contours;
   e. means of enclosure;
   f. hard surfacing materials; and,
   g. a timetable for the proposed works.

The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
3. All planting, seeding or turfing comprised in the approved details of landscaping referred to under condition 2 shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development, whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the local planning authority.

APPEARANCES

FOR THE APPELLANT:

Victoria Hutton 39 Essex Chambers
Monique Royale Colliers International
Rachel Jones Simply Planning
Justin Thomas New River Property Trust No 4

FOR THE LOCAL PLANNING AUTHORITY:

Chris Whitmore Area Planning Officer, Derbyshire Dales District Council

INTERESTED PERSONS:

Michael Tunnicliffe Parish Council

DOCUMENTS SUBMITTED DURING THE HEARING:

Document 1 – Legal Note: Appeal by New River Property Trust No.4. The Ostrich Inn, Long Lane, Longford, Ashbourne.


Document 3 – Application for Costs, Appeal by New River Property Trust No.4. The Ostrich Inn, Long Lane, Longford, Ashbourne.
The Planning Inspectorate

Appeal Decision

Site visit made on 18 April 2017

by S J Lee  BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th May 2017

Appeal Ref: APP/P1045/W/17/3168589
Winson Farm, Blind Lane, Kirk Ireton, Ashbourne DE6 3JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015.
- The appeal is made by Mr Steven Walker against the decision of Derbyshire Dales District Council.
- The application Ref 16/00738/PDA, dated 27 August 2016, was refused by notice dated 22 November 2016.
- The development proposed is a change of use of an agricultural building to a use as two dwellinghouses in accordance with class c3 (dwellinghouses) of the schedule use classes order.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the interests of clarity and for the avoidance of doubt, I have used the description of development as provided in the appellant’s appeal form in the header above.

Main Issue

3. The main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q(b) of the General Permitted Development Order (GPD0) 2015, having particular regard to whether the building operations proposed are reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouse).

Reasons

4. The appeal relates to a steel framed agricultural building, which was being used primarily to house cattle at the time of my visit. The building is open fronted, with three sides being made up of a concrete panel plinth with either timber or corrugated metal cladding above. It has a corrugated metal roof and concrete floor.

5. The works proposed would include the replacement of the existing concrete panels and cladding with new timber clad walls and insulation, the creation of a new similarly clad wall in the currently open elevation, the installation of doors and windows within the new walls and the replacement of the roof. Internally, there would be new dividing walls and the creation of a new first floor level.
6. Class Q(b) of the GPDO refers to building operations that are 'reasonably necessary' to convert the building being considered permitted development. The GPDO does not define what is meant by 'reasonably necessary'. However, both parties have referred me to the recent Hibbitt\(^1\) court judgement, which provides important guidance as to how this element of the GPDO should be interpreted.

7. I accept the argument that the building does not have to be capable of functioning as a dwelling in its existing state in order to benefit from permitted development rights. Equally, Class Q allows for works that could be extensive in nature and includes provision for the installation and replacement of walls, windows, doors, roofs and for partial demolition. However, in the above judgment the Court held that in order for the permitted development right to apply, the development proposed must fall within the concept of a 'conversion' as opposed to a 'rebuild' or 'fresh build'. If it does not, then it fails at the first hurdle and does not constitute permitted development. Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree.

8. The National Planning Practice Guidance (PPG) makes it clear that it is not the intention of the permitted development right to include the construction of new structural elements. It further states that the permitted development right only applies where the existing building is structurally strong enough to take the loading which comes with any permitted external works. Reference is made in the evidence to the results of a structural survey which concludes the steel frame would be capable of accommodating the increased load.

9. While the appellant states there would be no structural changes to the building, reference is made in the officer report to the need for additional bracing to limit the flexing of the frame when under load. I have also noted reference on the submitted plans to changes to the internal layout to accommodate 'future steel supports'. The evidence before me is not therefore entirely clear with regard to the extent of structural works to the building as a result of the other extensive works and alterations proposed.

10. Nevertheless, in the appeal related to the Hibbitt case, the Inspector concluded the remaining framework would be structurally sound enough to accept the proposed works, but that this was not determinative in terms of whether the works involved were within the scope of Class Q. The judge accepted this and concluded that the development in that case was, in all practical terms, starting afresh with only a modest amount of help from the original structure. This ruling demonstrates that the lack of structural change is not necessarily determinative in considering whether the limitations of Class Q are met.

11. The works here would involve the complete replacement of three walls, the construction of a new fourth wall on the currently open elevation, a new roof with skylights, internal dividing walls and the formation of a new first floor level. This would involve significant amounts of new construction to all four elevations and the roof. I accept that substantial works could fall under the scope of building operations within Class Q.

\(^{1}\) Hibbitt and another v Secretary of State for Communities and Local Government and another [2016] EWHC 2853 (Admin)
12. However, in the proposal before me, the structure would only be capable of functioning as a dwelling following substantial replacement and construction of new elements. This constitutes a significant level of alteration. The existing building would be stripped down to the frame only. In my view, if comparing what would remain of the original building with what would be constructed, it would be reasonable to conclude that the works carried out would, as a matter of fact and degree, be more than conversion. As such, I consider the nature and extent of the works to be such that the development would amount to a ‘fresh build’ as set out in Hibbitt.

13. Taking all relevant factors into account, it is my view that the extent of the works proposed for the building to be used as a dwelling would fall outside the scope permitted under Class Q(b) and would thus not be permitted development.

Other matters

14. The appellant has indicated that the dwellings created would be occupied by members of their family who would continue to farm the land. However, this does not have a bearing on whether the development would meet the specific conditions of the GPDO and thus is not something to which I have given weight in this case.

15. The Council assessed the proposal against the prior approval criteria set out in Class Q.2(1). Whilst they did not raise any significant concerns in relation to these matters, this provision relates only to permitted development. As I have already found that the development would not meet the requirements of Class Q(b), it is not permitted development and thus it is not necessary to consider these matters further.

Conclusion

16. For the reasons outlined above, the development does not satisfy the limitations in Part 3, Class Q of the GPDO. As such, I consider that the appeal should be dismissed.

S J Lee

INSPECTOR
Appeal Decision
Site visit made on 10 April 2017
by Jonathan Price BA(Hons) DMS DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government
Decision date: 4th May 2017

Appeal Ref: APP/P1045/W/16/3165992
Land to the west of Hallcroft Farm, Marsh Hollow, Hollington, Derbyshire DE6 3GD
• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
• The appeal is made by Mr Joseph Skinner against the decision of Derbyshire Dales District Council.
• The application Ref 16/00381/FUL, dated 25 May 2016, was refused by notice dated 26 July 2016.
• The development proposed is conversion of vacant and redundant outbuilding to residential dwelling (C3 dwellinghouse).

Decision
1. The appeal is dismissed.

Application for costs
2. An application for costs was made by Mr Joseph Skinner against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Procedural Matter
3. The appellant has submitted amended plans with the appeal. Compared to the scheme determined by the Council these amendments would retain the existing external materials, without the previously proposed over-cladding, and utilise existing openings in the building rather than altering and adding to these. The scheme would remain the conversion of the existing building to a single dwelling without any addition to its size.

4. In deciding whether to accept this amendment I have had regard to Annex M of the appeals Procedural Guide\(^1\) and to the ‘Wheatcroft Principles\(^2\) referred to therein. Paragraph M.1.1 of the Guide states that if an applicant thinks that amending their application proposals will overcome the local planning authority’s reasons for refusal they should normally make a fresh planning application. The local planning authority should be open to discussions on whether it is likely to view an amended scheme favourably.

5. Based on the Wheatcroft Principles, my main consideration is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. These amendments make significant changes to the external

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\(^1\) Procedural Guide : Planning appeals - England  (5 August 2016)  
\(^2\) Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]
appeal of the building. Although these changes would likely not prejudice the interests of other interested parties, the Council had not been given the opportunity to consider these in making a decision. To decide the appeal on the subsequently amended plans would therefore prejudice the Council’s position. The Council’s decision, against which the appeal is made, related to the scheme originally submitted. Consequently I do not intend to accept the amended plan in deciding the appeal.

6. However, consideration has been given to the Landscape and Visual Appraisal and Preliminary Bat Roost Assessment, both produced following the Council’s decision.

Main Issues

7. The main issues are:

- The effect of the residential conversion on the character and appearance of the surrounding area;
- Whether future occupiers would have reasonable access to services and facilities;
- Whether the residential conversion would be acceptable in relation to other potential uses of the building;
- The effect on protected species.

Reasons

Character and appearance of the surrounding area

8. The development plan comprises the adopted Derbyshire Dales Local Plan of November 2005 (ALP) in which Policy SF4 places a general restriction on development in the countryside, unless it meets specific criteria which might justify such a location. The appeal site is within the open countryside, well removed from any built-up settlement, where the surrounding land use is farming. The existing sheet clad, portal-framed building has the typical plain, utilitarian appearance of a modern farm building and was approved as a stable/storage building for agricultural use in December 2007. As such it was considered an acceptable development in the countryside under Policy SF4.

9. Criterion (d) of ALP Policy SF4 would permit the acceptable re-use or adaptation of an existing rural building where appropriate in nature and scale and preserving or enhancing the character and appearance of the countryside. Where this involves the provision of residential accommodation outside settlements the criteria of ALP Policy H5 would also apply.

10. Whilst modern agricultural buildings are a functional requirement of farming, the existing structure makes no positive contribution to the character and appearance of its surroundings, which would be a requirement under Policy H5 (b) necessary to support residential conversion. The existing building would require significant alteration to provide a residential use. The existing building could be used for an employment use without material change to its external appearance, such as storage or workshop accommodation, which would mean an alternative residential conversion would conflict with parts (c) and (e) of ALP Policy H5 respectively.
11. Whilst relatively small as an agricultural building, the proposal would result in a quite substantial dwelling. Coupled with its associated domestic paraphernalia a quite large and isolated new dwelling here would have a detrimental impact on the mainly undeveloped rural character and appearance of its immediate surroundings. Whilst the boundary hedging and topography, and the introduction of further landscaping, would screen the development from some vantage points it would not be entirely hidden. Any degree of screening would not alter the intrinsic harm caused to the rural character of this site, where a contemporary new house would appear both incongruous and out-of-keeping with the surroundings.

12. The restraint ALP Policy SF4 places on rural development is consistent with the core planning principles in paragraph 17 of the National Planning Policy Framework (the Framework) to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Consequently, ALP Policy SF4 is given significant weight in the determination of the appeal.

13. Paragraph 55 of the Framework seeks that unless there are special circumstances, such as the re-use of redundant or disused buildings, that isolated homes in the countryside should be avoided. Policies SF4 and H5 are consistent with paragraph 55 in that in certain circumstances they allow for the re-use of rural buildings as dwellings. Although paragraph 55 does not qualify the question of whether a building is redundant or disused, or makes any reference to its condition, these exceptional circumstances require that the re-use would lead to an enhancement to the immediate setting. For the reasons given this would not be the case with this proposal.

14. Paragraph 55 has to be considered in the context of the Framework policies taken as a whole. Therefore, it is not unreasonable for local policies to have qualified the circumstances for permitting the residential conversion of a rural building in greater detail than that set out in paragraph 55. ALP Policy H5 is considered generally consistent with the Framework and given significant weight. Otherwise, there would be little policy restraint over any building permitted initially as appropriate in the countryside, such in connection with farming, being subsequently converted to a residential use. In this case, the alterations to the simple agricultural building and its immediate setting resulting from the residential conversion proposed would result in material harm to the rural character of this location. For these reasons the proposal would not preserve or enhance the character and appearance of the countryside and therefore fail to comply with ALP Policy H5 (d) and ALP Policy SF4 (g).

Access to services and facilities

15. The dwelling proposed would be remote from any nearby settlement and future occupants would be highly dependent upon private car use to access regularly required services and facilities. There are rights of way leading to surrounding settlements and, although lacking a footway alongside, Marsh Hollow provides a shared surface for walking and cycling. Despite this, and because of the long distances involved, this proposal would not offer future occupiers convenient access to services either by foot or by cycling. In regard to public transport only an 'on demand' bus service would be available. This proposal would be clearly discouraged by the Framework principle to actively manage patterns of
growth to make the fullest possible use of public transport, walking and cycling, and to focus significant development in locations which are or can be made sustainable.

16. The Firs Farm decision\(^3\), where an appeal was allowed to convert redundant farm buildings to three dwellings, lends little weight to this proposal. In that case, the appeal was over the Council's refusal to grant prior approval for a development permitted under the then Class MB (now Class Q) of the General Permitted Development Order. The Inspector was constrained to consider only whether the location and siting of the buildings would make them impractical or undesirable to change use to residential.

17. The Government has subsequently confirmed through the Planning Practice Guidance\(^4\) that, in such cases, this permitted development right does not apply a test in relation to the sustainability of the location. As this proposal is not a similar prior approval case the converse can be assumed. The unsustainability of the location, and the dependence of occupiers upon private car use, would conflict with the Framework and weigh significantly against this proposal being permitted. Consequently, significant weight can be attached to the conflict found with the aims of ALP Policy SF4 to restrict development in the countryside to specific instances where it is either necessary or appropriate. These aims would prevent residential development in places where occupiers would be highly reliant upon private car use to meet regularly required needs.

Other potential uses of the building

18. Although not a specific requirement of paragraph 55, ALP Policy SF4 (d) seeks an acceptable re-use of an existing rural building and ALP Policy H5 (e) requires that it not be suited for conversion to employment or tourism use. A non-residential use would relate better to the design and originally intended agricultural function of this building. It might provide workshop or storage accommodation without the more significant degree of alteration and external change necessary to permit a residential use. This would avoid the visually more harmful and intrusive alterations proposed to convert the building to a dwelling and be more in-keeping with the character and appearance of this rural location.

19. I find little conflict with the Framework from either ALP Policy SF4 (d) or Policy H5 (e) as both criteria would also support a prosperous rural economy and avoid the incidence of new isolated homes in the countryside. Whilst the Framework does not prioritise rural employment and tourism over the delivery of housing, it is clear that for the latter this should not be through isolated homes in the countryside or at the expense of protecting its intrinsic character and beauty.

20. That the existing building is of a relatively recent construction as a purpose-built agricultural storage building, with attached stabling, structurally sound and in a good state of repair would lend weight to the Council's case that, under ALP policies SF4 and H5, it would be less appropriately converted to a

\(^3\) APP/P1045/A/14/2227868

\(^4\) Paragraph: 108 Reference ID: 13-108-20150305 Revision date: 05 03 2015
dwelling and better suited for a use more comparable to its originally intended purpose.

**Effect on protected species**

21. The Council’s third reason for refusal was that the application had not been accompanied by a survey for the presence of protected species. However, the Preliminary Bat Roost Assessment submitted found there to be no bat roosts and negligible potential for any and so this evidence would now overcome this reason for refusal.

**Conclusion**

22. The Framework was adopted in March 2012 and paragraph 211 states that Local Plan policies should not be considered out-of-date simply because they were adopted prior to this. Paragraph 215 requires that due weight be given to existing Local Plan policies, where relevant, according to their degree of consistency with the Framework.

23. The ALP was intended to guide the use of development of land across the District up to 2011 and this period has long expired. The emerging Local Plan\(^5\) (ELP) is reaching an advanced stage which increases the weight that can be given to its policies. ELP Policy S5 addresses development in the countryside and, whilst not exactly the same, seeks to carry forward requirements broadly similar to those in current ALP Policy SF4. ELP Policy HC8 deals with proposals for the conversion of buildings for residential accommodation outside settlements in terms similar to ALP Policy H5.

24. Under paragraph 216 of the Framework the weight that can be given to these emerging policies relates to the stage of plan preparation, now quite advanced, the extent of unresolved objections, over which no evidence has been provided, and the degree of consistency with the Framework, which would be at least equivalent to that found with the current policies. ELP policies S5 and HC8 can be afforded moderate weight. That they will carry forward the general thrust of ALP policies SF4 and H5, suggests these current policies remain relevant and up-to-date in respect of this proposal.

25. Consequently, the presumption in favour of sustainable development, as set out in paragraph 14 of the Framework, would not apply. This would therefore not require the granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. In terms of a general planning balance, the social and economic benefits of a single dwelling would be relatively small and be clearly outweighed by the harm caused to the character and appearance of this rural area, the unsustainability of the location and the loss of a vacant building that might otherwise be put to a more appropriate use benefitting the local rural economy.

26. It is for these reasons, having taken into account all other matters raised, that I conclude that the appeal should be dismissed.

*Jonathan Price*

INSPECTOR

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\(^5\) Derbyshire Dales Local Plan Pre Submission Draft Plan – August 2016.
Appeal Decision

Site visit made on 19 April 2017

by Richard Duggan  BSc (Hons) DipTP MRTP

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 May 2017

Appeal Ref: APP/ENV/3165103

42 Summer Lane, Wirksworth, Derbyshire

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
- The appeal is made by Anne Whittaker against the decision of Derbyshire Dales District Council.
- The application Ref: T/16/00066/TPO, dated 21 March 2016, was refused by notice dated 16 November 2016.
- The work proposed is fell one Sycamore tree (T2).
- The relevant Tree Preservation Order (TPO) is Yokecliffe Farm, Wirksworth Tree Preservation Order No 9, which was confirmed on 10 August 1979.

Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The Tree Preservation Order (TPO) confers protection to 29 trees of various species. The tree subject to this appeal is shown as T2 Sycamore within the Order.

3. The Council has granted consent on 20 January 2017 (LPA Decision Reference: T/16/00158/TPO) to remove deadwood from the Sycamore tree referred to as T1 within the Order, and to remove branches, lightly crown thin and remove deadwood from the Sycamore T2 within the Order. Its decision in respect of these works is not affected by my determination of this appeal.

4. The name given on the planning application forms is Anne Whittaker, but the Appellant’s are named as Gerald & Mavis Millward. The right of appeal is only given to the original applicant. However, Anne Whittaker has confirmed in writing that the appeal should proceed under her name and that Mr Gerald Millward is authorised to be the agent for the appeal.

5. The main issues in relation to the appeal is whether the Council’s decision to refuse consent for the proposed work to the protected tree is justified, having regard to the contribution that the tree makes to public amenity and the reasons put forward for the work.
 Reasons

Amenity value

The appeal tree is a fine, mature specimen with a large evenly-shaped canopy. It is located in the rear garden of the appeal property close to the boundary with Nos 30 and 32 Yokecliffe Avenue. Due to their size and position the appeal tree along with the adjacent tree (T1) are one of the most prominent trees in the locality, as such, they play a significant part in softening public views of the built environment.

6. The appeal tree is clearly visible in the street scene and makes a positive contribution to public amenity in this location. The tree also contributes to the wider character and appearance of the area, being one of very few large mature trees interspersed throughout the residential neighbourhood. Felling the tree at this time would significantly diminish the quality of the street scene given the tree’s position, size, form and attractive character. Such action would mean the removal of a feature which otherwise is likely to continue to enhance the quality of the public realm well into the future. I consider that the removal of the tree would have a harmful effect on the local environment and its enjoyment by the public.

7. Therefore, I conclude that the protected tree contributes to the amenity of its surroundings and its removal would be harmful to the character and appearance of the area. It is in this context that I consider the justification provided for the proposed work.

Justification for the work

8. The main basis of the Appellant’s case is the concerns regarding shading and loss of light within the adjacent properties thus harming the living conditions of residents, the inability to site solar panels, falling debris and moss accumulation within the properties, and the potential for the tree or large branches to fall.

9. The Appellant is clearly concerned about the scale and size of the oak tree and the proximity to the appeal properties. The tree is within striking distance of No’s 30 and 32 Yokecliffe Avenue and it could be considered a risk. However, no detailed evidence has been supplied within the arboricultural report¹ which identifies a present danger or quantifies the extent of the associated risk. Whether or not there is a high risk of the tree falling should be assessed on the basis that there is a present danger. I have no evidence to support the claim that the tree is immediately dangerous and hence needs to be felled. In any event, I observed the tree and I agree with the arborist’s report that both trees (T1 and T2) are in reasonable condition.

10. The fear of a tree falling is understood, and a tree’s failure may not be due to an unobserved inherent defect, as healthy trees may be uprooted in severe winds. However, trees have a built-in safety factor whereby they are usually able to withstand much stronger mechanical loading than occurs under normal conditions, although I understand that is sometimes not enough to prevent them from falling. However, if this argument succeeds then every protected tree which might be dangerous would have to be felled.

11. In relation to falling limbs, a tree will shed branches and debris, this factor is a natural characteristic of all trees. Dead wood can be removed under the TPO exemption, and the removal of dead and dying branches forms part of the general maintenance of a property with protected trees. The Arboricultural Report states that cavities and associated decay would have caused branches to break and fall in the past and may well happen in the future. However, the level of decay has not been adequately explored to provide the substantive grounds that would quantify the risk of potential structural failure. The extent of any potential decay properly mapped would provide the information to make an informed decision about the level of the present risk of limbs or branches falling in windy conditions. In the absence of such evidence I am unable to reach a conclusion that the tree has decayed to such an extent that the risk of limb failure from wind-blow would amount to an unacceptable risk.

12. I note the strength of feeling shown by the Appellant and the adjoining residents regarding clearing fallen branches and debris and moss growing on roofs. Whilst I have sympathy with these matters, I do not regard the nuisance factor of clearing debris as a justification for the works as these are a natural and ordinary consequence of having trees within a residential environment. The clearing of tree related debris is part of routine household maintenance when living in proximity to a tree, and in isolation it provides no justification for undertaking the excessive level of work being proposed to a high quality protected tree.

13. Whilst I have noted the reference to structural damage within the information supporting the appeal, no professional or technical analysis by an engineer, building surveyor or other appropriate expert has been provided as part of the TPO application or the appeal, to support the assertion that there may be structural damage to the houses as a result of the trees. Therefore, I am unable to reach an informed conclusion on the matter.

14. I saw that the tree’s canopy has grown and spread over recent decades, to the extent that it now extends across the rear gardens of No’s 30 and 32. Whilst there is reasonable clearance beneath the canopy and between it and the houses, the tree has now attained such a size that it is giving rise to shading and loss of light within the properties, such that residential amenity for the occupants is reduced. In my opinion, this could be remedied to some extent by crown thinning and comparatively modest works to prune, trim back and thin the branches as well as removing some lower branches, rather than felling the tree. I see no reason why the tree would not successfully withstand this level of work and continue to make a positive contribution to public amenity, particularly with regrowth over the following years.

15. I note the reference to the planting of replacement trees and I agree that in the event of the appeal being allowed I have the opportunity to require replacement planting. However, the proposal of replacement trees is not sufficient in its own right to make the loss of the appeal tree reasonable and justified.
16. I have considered all other matters raised but none outweigh my conclusions on the main issues and that this appeal should be dismissed.

Richard Duggan
INSPECTOR
BACKGROUND PAPERS

The following documents have been identified in accordance with the provisions of Section 100(d) (5) (a) of the Local Government Act 1972 and are listed for inspection by members of the public.

Background papers used in compiling reports to this Agenda consist of:

- The individual planning application, (including any supplementary information supplied by or on behalf of the applicant) and representations received from persons or bodies consulted upon the application by the Local Planning Authority and from members of the public and interested bodies by the time of preparation of the Agenda.
- The Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and related Acts, Orders and Regulation and Circulars published by or on behalf of the Secretary of State for the Department for Communities and Local Government.
- The National Planning Policy Framework
- The Planning Practice Guidance

These documents are available for inspection and will remain available for a period of up to 4 years from the date of the meeting, during normal office hours. Requests to see them should be made to our Business Support Unit on 01629 761336 and arrangements will be made to comply with the request as soon as practicable.