09 January 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 17 January 2017 at 6.00pm at The Venue, Wyaston Road, Ashbourne DE6 1NB – PLEASE NOTE CHANGE OF VENUE.

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS: The Committee is advised a coach will leave The Venue, Ashbourne at 1.40pm 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 – 13 December 2016

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. 16/00450/REM (Site Visit)
Residential development - Reserved Matters application for the erection of 200 dwellings and associated works (Outline permission 13/00911/OUT) at Land South of Derby Road, Ashbourne.

4.2 APPLICATION NO. 16/00374/FUL (Site Visit)
Use of premises for commercial dog breeding and boarding purposes, replacement kennel and erection of new isolation unit at Four Lane Ends Farm, Gibfield Lane, Hulland Ward.

4.3 APPLICATION NO. 16/00587/FUL (Site Visit)
Erection of 9 dwellings and associated open space at Mushroom Farm, Rodsley Lane, Yeaveley.

4.4 APPLICATION NO. 16/00807/FUL (Site Visit)
Demolition of conservatory and outbuilding and erection of a two storey rear extension and front porch at Swallow Tail Farm, Wyaston Road Yeaveley.

4.5 APPLICATION NO. 16/00581/FUL
Installation of asphalt plant, Change of Use of Land to B1, B2 and B8 use, extension to industrial building and engineering works at Manor Farm, Longcliffe, Brassington.

5. INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS

6. APPEALS PROGRESS REPORT
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 Burfoot, Sue Bull, Albert Catt, Tom Donnelly, Graham Elliott, Richard FitzHerbert, Chris Furness, Neil Horton, Jean Monks, Tony Morley, Mike Ratcliffe, Lewis Rose OBE, Peter Slack and Jo Wild.

Substitute Members
Deborah Botham, Jennifer Bower, Richard Bright, Martin Burfoot, Phil Chell, Ann Elliott, Helen Froggatt, Alyson Hill, Angus Jenkins, Vicky Massey-Bloodworth, Joyce Pawley, Mark Salt, Andrew Shirley, Andrew Statham, Jacquie Stevens, 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>Representation Type</th>
<th>Time Limit</th>
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<tbody>
<tr>
<td>Town and Parish Councils</td>
<td>3 minutes</td>
</tr>
<tr>
<td>Objectors</td>
<td>3 minutes</td>
</tr>
<tr>
<td>Ward Members</td>
<td>5 minutes</td>
</tr>
<tr>
<td>Supporters</td>
<td>3 minutes</td>
</tr>
<tr>
<td>Agent or Applicant</td>
<td>5 minutes</td>
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</tbody>
</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 Venue, Wyaston Road, Ashbourne DE6 1NB at **1.40pm prompt** for the following site visits:

**PLEASE NOTE STURDY FOOTWEAR IS REQUIRED.**

1.50pm  APPLICATION NO. 16/00450/REM

LAND SOUTH OF OLD DERBY ROAD, ASHBOURNE

To assess the impact of the development on the character and appearance of the area and neighbouring amenity.

2.45pm  APPLICATION NO. 16/00374/FUL

FOUR LANE ENDS FARM, GIBFIELD LANE, HULLAND WARD.

To consider the impact of the development on the local environment.

3.25pm  APPLICATION NO. 16/00587/FUL

MUSHROOM FARM, RODSLEY LANE, YEAVELEY.

To assess the impact of the development on the character and appearance of this part of the village and the local environment.

3.45pm  APPLICATION NO. 16/00807/FUL

SWALLOW TAIL FARM, WYASTON ROAD, YEAVELEY.

To assess the impact of the proposed extension on the amenity of the occupants of the neighbouring dwelling.

4.20pm  RETURN TO THE VENUE, ASHBOURNE
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.
### APPLICATION NUMBER
16/00450/REM

### SITE ADDRESS:
Land South Of Old Derby Road
Ashbourne

### DESCRIPTION OF DEVELOPMENT
Residential Development - Reserved Matters application for the erection of 200 dwellings and associated works (Outline permission 13/00911/OUT)

<table>
<thead>
<tr>
<th>CASE OFFICER</th>
<th>Mr. J. Bradbury</th>
<th>APPLICANT</th>
<th>Miss. Helen Bareford</th>
</tr>
</thead>
<tbody>
<tr>
<td>PARISH/TOWN</td>
<td>Ashbourne</td>
<td>AGENT</td>
<td>As above</td>
</tr>
<tr>
<td>WARD MEMBER(S)</td>
<td>Councillor Donnelly, Councillor Chell</td>
<td>DETERMINATION TARGET</td>
<td>30th September 2016</td>
</tr>
<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>Major application</td>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>To assess the impact of the development on the character and appearance of area and neighbour amenity</td>
</tr>
</tbody>
</table>

### MATERIAL PLANNING ISSUES
1. Site history and relationship to outline permission granted on appeal
2. Quality of proposed housing layout and impact on character and appearance of area
3. Housing mix and delivery of affordable housing
4. Open space provision
5. Drainage
6. Impact on amenity of nearby residents

### RECOMMENDATION
Approval
16/00450/REM

Land South of Derby Road, Old Derby Road, Ashbourne

Derbyshire Dales DC

Date: 06/01/2017

100019785
1. **THE SITE AND SURROUNDINGS**

1.1. The application site comprises of 9.9 hectares of agricultural grazing land immediately to the south east of the built up area of Ashbourne. The site is bounded by the bypass to the south with an intervening planted bund. To the north west is the recently constructed housing site at Willow Meadow Farm which adjoins an existing suburban estate which form the remainder of the northern boundary. A stream marks a fold in the landscape between the site and existing housing and runs down from north east to south west. The line of this brook is tree lined with the tree cover increasing in amount generally as you move down from north east to south west.

1.2. The site comprises of 4 fields with the largest being that which fronts onto Old Derby Road and bounds the curtilage of the Hill Top Farm and the listed Old Toll House to the north east. This field is roughly rectangular and slopes gently down from north east to south west but also with a ridge which descends from its eastern boundary back towards Ashbourne to the west. The field immediately to the south east of this is triangular in shape and wraps around the southern edge of the buildings at Hill Top Farm. This field is fairly level with individual specimen trees and is screened from the bypass by established planting.

1.3. The boundary between these fields is marked by a fence whilst along the south western boundary of the fields is a hedgerow with trees which separates the fields from two further fields to the south west. These fields slope more steeply with the gradient increasing down to the brook and are separated by a further hedgerow running north east to south west. A public footpath emerges from across the stream to the north and ascends these fields before crossing the bypass. These fields are also well screened along their southern boundary by mature planting between them and the bypass.
2. DETAILS OF THE APPLICATION

2.1. Reserved matters approval is sought for the erection of 200 dwellings with associated works. The outline permission already granted approved the location of the access and some off site highway works. This reserved matters application seeks the approval of the appearance, landscaping, layout and scale of the development.

2.2. The application has been revised during consideration in response to officer and consultee comments but remains at 200 dwellings.

2.3. The 200 dwellings comprises of the following mix:-

(a) One hundred and fifty five open market dwellings with the following breakdown:-

- (i) twenty six 5 bedroom units (13% of total)
- (ii) thirty seven 4 bedroom units (18.5%)
- (iii) sixty three 3 bedroom units (31.5%)
- (iv) twenty nine 2 bedroom units (14.5%)

(b) Forty five affordable dwellings with the following breakdown:-

- (i) ten 3 bedroom units (5%)
- (ii) twenty six 2 bedroom units (13%)
- (iii) three 2 bedroom bungalows (1.5%)
- (iv) six 1 bedroom apartments (3%)

2.4. Access into the new estate of dwellings is from Old Derby Road in the previously approved location where a bus layby currently sits and the formation of the access will involve the removal of a section of the existing hawthorn hedge.

2.5. The layout immediately adjoining Old Derby Road incorporates a private drive spurring off to the east and west with dwellings fronting Old Derby Road to the south of this. The estate road then splits approximately 55m into the site to create a large loop road in the main body of the site. A linear open space is retained along the north western section of the site and this will incorporate recreational open space, some play equipment and drainage features. The width of this greenspace varies between 15m where it provides a pedestrian route to Old Derby Road up to a maximum of approximately 50m. Dwellings
along the eastern boundary of the estate road are designed to front out over the open space which lies on the opposite side of the road.

2.6. The main loop estate road has spurs to the south west and east which extend into the narrower parts of the site. Other open spaces are located around a footpath route to the south west and existing mature tree groups centrally and in the eastern part of the site. Footpath links are incorporated within the layout to facilitate pedestrian movement and the main open space incorporates a footpath along its length which links to the existing public footpath at the south western end.

2.7. The public open space along the north western section of the site incorporates two balancing lagoons. The southernmost of these involves re-engineering the land over an area of 75m south west to north east and 30m north west to south east. The feature will sit just to the south west of the existing footpath route. Because of the fall in land levels at this point a single line of detached dwellings are located to the south on higher ground overlooking the feature.

2.8. The other balancing lagoon is located approximately half way along the north western boundary with an overall length of 70m and maximum width of 25m. At its nearest point to the site boundary it is approximately 8m away.

2.9. A local equipped area for play (LEAP) is located to the north east of this proposed lagoon approximately 15m from the boundary.

2.10. The dwellings would be constructed primarily in red brick with some limited use of render with tiled roofs.

2.11. The application is accompanied by the following supporting documents:

- A Housing Mix Justification Statement
- A Landscape Management Plan
- Sections of the Balancing Lagoons
- Drainage Layouts for the Site

2.12. These documents have been circulated to the relevant consultees and are referred to as appropriate in “The Officer Appraisal” section of this report.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

1. Adopted Derbyshire Dales Local Plan (2005)
   SF4: Development in The Countryside
   SF5: Design And Appearance of Development
   SF7: Waste Management And Recycling
   H4: Housing Development Outside Settlement Framework Boundaries
   H10: Affordable Housing Within The Settlement Framework Of Market Towns
   H13: Affordable Housing Exceptional Sites In Rural Areas
   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
   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
2. Derbyshire Dales Local Plan Deposit Draft Plan:
   HC4: Affordable Housing
   HC11: Housing Mix and Type

3. National Planning Policy Framework
   Paragraphs 12, 14, 47, 49, 50, 56, 73, 109, 118, 123, 129, 132, 134, 141, 144, 210,
   214, 215, 216

4. RELEVANT PLANNING HISTORY:
   13/00911/OUT Residential Development of up to 200 dwellings, with public open
   space, highway improvements and landscaping – Refused – Allowed
   on appeal subject to legal undertaking

5. CONSULTATION RESPONSES

Ashbourne Town Council
5.1 The proposed housing mix is contrary to the Draft Local Plan Policy HC10, the justification
   of which is supported by the Ashbourne Housing Needs Assessment. There is no
   justification for providing off-site affordable housing and it is contrary to the sustainability
   principles of the National Planning Policy Framework, Draft Local Plan and Ashbourne
   Neighbourhood Plan.

   The Town Council require a definitive statement from Derbyshire Dales District Council
   that there is no affordable housing need in Ashbourne that would justify the Council's
   decision to agree off-site provision. All affordable housing should be on-site or where
   justified within Ashbourne to meet express local need.

   The detailed comments of the Local Highway Authority need to be addressed before a
   planning decision can be made.

   The detailed comments of the 20 local objectors must be addressed before a decision is
   made of particular concern is the impact of water from the brook that runs through the site
   from the Industrial Estate. A technical solution is required for this before a decision is
   made.

   Consideration should be given to the recent study by Severn Trent in relation to
   contamination.

   The proposal should be assessed under ‘Building for Life’ assessment and the results
   reported.

   The development will have a significant impact on traffic on Derby Road and Old Derby
   Road which is already heavily congested. Improved access is needed before permission
   is given.

   The design is uninspiring and will result in a loss of amenity to residents nearby.

Local Highway Authority
5.2 Raise no objection in principle but suggest some minor revisions to the layout in terms of
   visibility splays, surfacing of highway footpath diversion and provision of footpath link
directly to Old Derby Road. Seek reassurance that the conditions / legal requirements imposed on the outline permission will still apply.

Comment on the final amended layout will be reported to Committee.

**Environment Agency**

5.3 No objections to the development because it is subject to conditions 7.1 and 7.2 imposed on the outline permission and those fully expressed the requirements of the Environment Agency.

**Derbyshire County Council Land Drainage**

5.4 Have no comment to make as were not a statutory consultee at the time outline permission was granted.

**Environmental Health**

5.5 Draw attention to the requirement for the applicant to address the noise attenuation scheme imposed by the Inspector.

**Head of Housing**

5.6 Request that the affordable housing mix be modified to be 3 x 2 bed 4 person bungalows to Lifetime Homes Standard, 26 x 2 bed 4 person houses, 10 x 3 bed 5 person houses and 6 x 1 bed 2 person flats. Suggest minimum gross internal floor areas for each unit type.

Disappointing to see that a high proportion of the affordable housing is located closest to the A52, which is the least desirable part of the site. A location away from this main road and closer to the open space would be preferred.

Parking should be the same as for the market housing. The affordable homes should not be expected to contribute to landscape management.

As the affordable houses are spread across the site it is assumed they will be completed at different stages. This is welcomed.

**Crime Prevention Design Adviser**

5.7 The reserved matters are well thought out and proportionate in respect of community safety matters for most areas.

Where pedestrian footpaths run between houses it is suggested that a metal rail rather than timber rail define the boundary of the plots.

Rear parking court for plots 180, 181 and 179 would preferably be removed as they are a generator of anxiety and crime.

Shared garden access routes should be communally securable from both sides with a robust and visually permeable solution such as an ironwork gate.

Gates for plots should be lockable.

**6. REPRESENTATIONS RECEIVED**

6.1 A total of 17 representations received raising the following points:

1. New properties will look down into gardens on Cedar Close adversely affecting privacy / amenity and breaching the right to light.
2. The development will reduce the value of properties and residents should be compensated.
3. Proper robust planted screening should be used to safeguard neighbours amenity.
4. The junction of Old Derby Road and Derby Road will not be able to cope with the additional traffic. It is badly congested at peak times.
5. Drains need upgrading as the area is currently subject to surface water flooding.
6. The increase in hard surfaces will reduce the capacity of the ground to absorb water and make flooding worse.
7. The proposal will result in the loss of fine agricultural grazing land.
8. Loss of habitat for 30 bird species and bats.
9. Healthy trees on site and hedgerows need to be retained for the benefit of people and wildlife.
10. More air pollution will result.
11. Sewage disposal will be more problematic in the area. An unhealthy smell already exists on site.
12. The brook needs to be kept as a wildlife corridor.
14. Existing trees screening neighbours should be retained.
15. Ashbourne’s population is set to grow by 28% and residents won’t have adequate quality of life.
16. Existing residents will suffer from increased noise and pollution.
17. Concerned over future maintenance of open spaces, a proper scheme needs setting up for future maintenance.
18. Request the developers help fund transport for the elderly.
19. Care needs to be taken in siting any development near the brook as its flow varies greatly in heavy rain.
20. Investment is needed in schools, roads, doctors etc., and without this the development is unsustainable.
21. Congestion will spread to the wider area blocking Springfield Road.
22. The development will jeopardise the Listed Toll House and affect Bonnie Prince Charlie Way.
23. The application site plan includes part of a neighbour’s garden.
24. No acknowledgement of the large underground sewage tank on site.
25. Views from Wyaston Gardens would be adversely affected.
26. The open countryside aspect of many properties will be lost.
27. A slip road should be added to the bypass.
28. Proper secure boundaries should be provided for neighbouring properties.
29. Houses at Hilltop View will suffer loss of amenity from overlooking and noise. Ask that the height of properties be lessened to reduce impact in this locality.
30. Ask that 1.8m close-boarded fence or 1.8m brick wall be provided to screen Hilltop View.
31. Any works to the brook should avoid works to the trees that screen adjacent housing.
32. Modelling of traffic at the Old Derby Road junction has never reflected the true nature of congestion.
33. Soakaways will not work on this site.
34. Site workers vehicles must be parked within the site.
35. The Old Derby Road boundary hedge should be retained.
36. The scheme would work better if the density were reduced.
37. The layout should incorporate a second emergency access to ensure continued emergency vehicle access if there is an accident at the junction of Old Derby Road / Derby Road.
38. More extensive highway design solutions are required including extending the bypass to the east of Ashbourne.
39. Television reception will be worsened.
40. The river bank of the brook will suffer further erosion.
7. OFFICER APPRAISAL

7.1 Site History and Relationship to Outline Permission Granted on Appeal

The principle of residential development of up to 200 dwellings has been established by the granting of outline permission on appeal (13/00911/OUT). Whilst there remains a significant amount of public concern about the principle of developing this site issues such as the suitability of the access point, the amount of housing, the loss of greenfields, the amount of on-site affordable housing and the consideration of flood risk are all matters that have already been given due consideration by the Appeal Inspector and been considered acceptable or been covered by conditions on the outline permission which will need to be separately discharged.

For the avoidance of doubt, therefore, it is worth restating the following parameters of the outline permission.

(i) The point of access is fixed in the location proposed and the outline permission involves minor works to improve the Old Derby Road / Derby Road junction along with a requirement to submit a scheme to improve Derby Road / Sturston Road junction. Monies are available through the legal agreement to promote footpath and cycle routes and a sustainable travel plan is to be promoted.

(ii) The affordable housing for the site was agreed in the form of 22.5% provision on-site and 22.5% off-site by way of a financial contribution. Based on the current scheme of 200 dwellings the developer would be required to make an off-site payment of £1,145,250. This will be paid in 3 instalments with 50% secured by the time 50% dwellings occupied and 50% on 85% occupation. The on-site affordable is to be delivered before 50% of the market dwellings are occupied.

(iii) The school contributions comprise £455,960.40 for infant and junior, £515,285.10 for secondary and £223,534.80 for sixth form. These monies are to be delivered in staged payments.

(iv) The conditions on the outline permission cover submission of reserved matters, landscaping works and future maintenance, retention of trees and hedgerows, open space and play areas and their future maintenance, laying out of access and provision of junction improvement before 10 dwellings are occupied, no more than 30 dwellings occupied until Derby Road / Sturston Road junction improved in accordance with a scheme to be submitted, submission of a travel plan, full details of foul and surface water to be agreed including future maintenance and measures to cover noise attenuation for dwellings.

Whilst it is inevitable that a degree of crossover into those areas already resolved in the parameters of the outline permission will occur in assessing the reserved matters of appearance, landscaping, layout and scale, the remainder of this analysis seeks to focus on the assessment of these reserved matters.

7.2 Quality of Proposed Housing Layout and Impact on the Character and Appearance of the Area

In order to assess the quality of the proposed development it is important to have full regard to the context. The application site comprises attractive agricultural grazing land lying between the existing boundary of the town and the bypass. An attractive mature group of trees lie to the immediate east behind which, are attractive vernacular buildings. Within the site are individual mature ash and oak and mature hedgerows. Along the north western boundary is the brook with its associated tree cover. To the north east along Old Derby Road is an attractive hawthorn hedge whilst immediately to the east of this is the
garden of the Grade II Listed Toll House. The south eastern boundary of the site is marked by vegetation beyond which is the bypass. The housing to the north west of the site is fairly typical of suburban Ashbourne with a mix of different bricks, some render and predominantly concrete tile roofs. The recently completed development of Willow Meadow Farm harmonises with these general characteristics.

Whilst it is important to ensure that the layout, appearance, landscaping and scale are appropriate to context the site has only limited visibility from further afield and will not it is considered result in undue harm to the character and appearance of the landscape.

Although the density is relatively high in comparison with the surrounding context, given the need to meet a range of housing needs and make good use of allocated sites this is not considered a significant weakness of the scheme.

The layout is considered to have appropriate regard to existing site assets and focus upon them in a way that gives the site identity. The mature tree groupings provide the anchor for small open spaces within the layout which help to break up the estate. The line of the brook and the need to make provision for flood attenuation create an attractive linear open space along the north western boundary. This will incorporate some play equipment and links to existing footpath routes. A grouping of mature beech trees protected by a Tree Preservation Order lying to the north east of the site provide an attractive backdrop to the housing. In the initial proposal the houses were set uncomfortably close to these. The scheme has been amended to set the housing further away such that each property has a decent sized rear garden clear of the tree canopy with a minimum separation from the main elevation of the houses of 18m from the trunks. With this arrangement the trees remain an attractive component of the local environment and will not be directly threatened by the presence of new housing.

The attractive hawthorn hedge along the site frontage is to be largely retained with a break to form the access and properties fronting out onto Old Derby Road behind this.

The Old Toll House is Grade II Listed and as such it is important to assess the impact of development on its significance. The Appeal Inspector concluded that its significance in part derived from its setting but that the buildings position against the road was key to this. He considered that as the site was the other side of a substantial garden there was no reason why its setting should be adversely affected. Although the layout has buildings immediately to the south of the garden the existence of tree cover and potential for further planting should ensure that the setting is safeguarded from harm and as such no adverse impact will result to the heritage assets significance.

Apart from assessing how the scheme utilises and safeguards assets it is important to look at its cohesiveness and character. The development will create an attractive frontage to Old Derby Road which sits comfortably in its context. Beyond this the houses largely front out onto the street, parking is often concealed down the sides of dwellings and feature plots are used to respond to vistas and turn corners. The range of house types is relatively limited and within streetscenes the house types are largely complimentary avoiding restlessness. Houses face out onto the open spaces to make the most of them and the layout responds to the topography. Pedestrians will find it relatively straightforward to get around the estate and connect into the wider footpath network. Provided the use of materials and their distribution is appropriately controlled it is considered that the quality of the housing layout is appropriate to its context safeguarding the prevailing local sense of place. The aims of Local Plan Policy are satisfied.

Housing Mix and Delivery of Affordable Housing

7.3 The consideration of the outline scheme on appeal pre-dates the emergence of the current draft Local Plan. The decision on the application does not include any specific condition
relating to the housing mix beyond specifying the proportion of affordable units at 22.5% with a further 22.5% provision off-site.

Notwithstanding this it is, however, considered reasonable to have regard to the housing mix required to meet the needs of the district specified in Policy HC11 of the emerging Local Plan and weigh this in the balance along with other matters such as the extant permission and local context.

Policy HC11 seeks a distribution of house sizes as follows across a development:

- 1 bed: 15%
- 2 bed: 40%
- 3 bed: 40%
- 4+ bed: 5%

In assessing this submission if the on-site dwellings are considered only the scheme as drafted will deliver:

- 1 bed: 3%
- 2 bed: 29%
- 3 bed: 36.5%
- 4+ bed: 31.5%

However, it is considered fair and reasonable to also consider those units that will subsequently be delivered off-site. It is likely that provision of off-site units funded by the scheme will be in 1 and 2 bed units and the overall housing delivery would be 245 units as a result. If the mix is then assessed on this basis the approximate percentages would be:

- 1 + 2 bed: 44%
- 3 bed: 30%
- 4+ bed: 26%

This likely distribution of units is still at variance with the Council’s objective as it is skewed to larger units.

The applicants have submitted a justification for the mix which makes the following points:

- The Local Plan and its policies are not at an advanced stage and as the contents of Policy HC11 is still open to consideration by the Inspector it carries only limited weight
- The housing mix proposed is inclusive, providing broad opportunities for home ownership with the emphasis on smaller units
- The housing mix is considered to be in keeping with the character of this edge of settlement location balanced efficient use of land whilst avoiding overdevelopment
- The development is not so large as to undermine the policy
- The housing mix is in line with the core principles of the National Planning Policy Framework in the context of an emerging plan policy that only attracts limited weight

Having regard to the case made by the applicant and the analysis provided above, on balance it is considered that the mix is acceptable and will sit comfortably within its context.
The distribution of affordable housing is commented upon by the Head of Housing and some concern has been expressed about locations close to the bypass. Whilst this point is noted a range of properties back onto the bypass and in any event the Council’s Environmental Health team have not deemed this an unacceptable location for housing with their views reflected in the condition imposed by the Inspector. The spreading of affordable housing around the development will allow for phased delivery and creates mixed communities both of which are to be encouraged.

7.4 Open Space Provision

As mentioned earlier in this report the site has a range of environmental assets which will help to create an attractive living environment. Mature trees and hedgerows provide an obvious focus and opportunity to create open spaces around the site. In addition site contours, the brook and the desire to safeguard amenity mean that a linear green space has always been a component part of the masterplan for this site. This linear open space is designed to incorporate both flood attenuation facilities in the form of balancing lagoons but more significantly provides an attractive greenspace overlooked by housing which has both a “trim trail” of apparatus for recreation and a dedicated small children’s play area within it, all linked along a new pedestrian footpath which runs into the Bonnie Prince Charlie Way to the south west and meets Old Derby Road to the north. This provision in combination with the series of small open spaces around the site will, it is considered, adequately meet the open space needs for the site, softening the impact of residential development and providing for the recreation needs of the range of age groups.

7.5. Drainage

As already mentioned the outline permission considered the issue of flood alleviation and the Inspector and Environment Agency were satisfied that a scheme could be designed for the site to deal with this issue adequately. The Environment Agency will be consulted on the final details that are submitted to discharge the condition.

Whilst it is clearly not appropriate in this context to re-examine the principle, the layout proposed does make provision of balancing lagoons which have both an impact on the appearance of the scheme and have the potential to impact on amenity. The submitted drawings have been supplemented by sectional drawings of the site where the two flood alleviation lagoons are to be created. In the case of the pond at the southern end of the site the submitted section shows the pond being cut into the hillside with housing set about it.

Whilst this will be a significant change to the topography of the locality it has limited visibility and appropriate landscaping can soften its impact. No raising of land levels is required to the north western side.

The northernmost flood alleviation pond has lesser capacity and involves less excavation to create its contours. Again no building up of levels is proposed along the north western boundary. It is considered that the design of this feature will readily assimilate into the wider open space.

It has to be recognised that these features are both necessary and also for much of the time will remain free of water. On balance, they will not result in significant adverse impacts on local landscape character or on the quality of the overall scheme.

7.6. Impact on Amenity of Nearby Residents

The nearest residents to the scheme have raised concern over impact on amenity in terms of overlooking / loss of privacy, loss of view over the site, noise nuisance and loss of television reception.
The design of the scheme with the provision of a linear open space means that new dwellings sit a considerable distance from existing dwellings to the north west. The separation is a minimum of over 40m. In this context even with local topography changes no significant overlooking will result.

The other elements of the scheme that could affect amenity in this area are the form of the balancing lagoons and the potential for noise from the open space. As already mentioned the form of the lagoons indicates no building up of land levels and these are sited away from the brook so as to not require any removal of vegetation. As such they should not exacerbate amenity concerns.

The use of the open space has some potential to cause disturbance to amenity. The LEAP is approximately 15m from the nearest dwelling garden but is designed for use by small children. Whilst it cannot be guaranteed that no nuisance will result the separation and presence of screen planting should minimise impacts to an acceptable level.

Concerns have been expressed about how the development will impact on the amenity of residents to the north east of the development living in converted agricultural buildings. These properties currently enjoy views out over agricultural land to the south and east. The amended scheme sites the nearest dwelling 15m from the eastern boundary. To the south the nearest dwelling is 20m from the boundary. The closest dwellings set in this locality are those which sit south west the other side of the estate road. The house on plot 39 is 12m from the boundary and 22m from the buildings. This plot is a corner unit designed to face onto two roads. As such it has two first floor bedroom windows facing north which will look into the garden of the house to the north. As one of the bedrooms already has a window facing east and the other could incorporate a window on the rear it is suggested that the design of this unit be amended to overcome the overlooking that will result by removing first floor habitable room windows in the north elevation.

The residents of the conversion have suggested a solid boundary wall or fence to protect them from overlooking. Whilst this may provide a solution, visually it would be at odds with the character of the locality. Therefore, it has been agreed that new hedge planting should be undertaken along this boundary to complement existing soft landscaping.

Overall, whilst surrounding residents will clearly experience significant change to their outlook, the impacts in terms of overlooking or noise nuisance in the long-term are not of such a nature that refusal could be recommended.

New residents of the development along the south eastern boundary could be subject to some noise nuisance from the bypass. However, the boundary along this side of the site is robust with a deep hawthorn hedge and planted embankment. With appropriate measures to comply with the condition on noise attenuation imposed by the Inspector it is not considered that their residential amenity is so compromised as to be unacceptable.

7.7. Conclusion
As set out earlier in this report the principle of residential development on this site has been established by the granting of outline permission on appeal. This appeal decision approved the access and the amount of development. Within its legal agreement it sets out the requirement for on-site affordable housing and a range of contributions. These matters cannot be re-examined on the basis of the current reserved matters application. The decision includes a range of conditions which will need to be addressed in parallel with this application covering matters such as drainage but the principle of draining the site in the way now suggested was accepted by the Inspector. The current scheme has to be assessed for the reserved matters for which it seeks approval, namely appearance, landscaping, layout and scale.
In relation to these, as discussed above, the form of the development is relatively dense at 200 units. However, the development responds positively to the sites characteristics and retains the majority of mature trees and integrates them positively into the layout. Open space helps to break up the housing and the linear open space provides an attractive break between the development and existing housing to the north west. The design of the housing is relatively cohesive and cars are tucked in between and alongside dwellings to prevent them dominating the layout. Pedestrians and children will be well catered for and the site has reasonable interconnectivity given the constraints that exist. The provision of social housing accords with the overall wishes of the Head of Housing and in being spread throughout the development will allow for phased delivery to tie in with emerging needs.

Although the mix of housing is at variance with the emerging Local Plan the site does have a good range of house sizes which respond to local needs whilst having appropriate regard to context.

In summary the details of appearance, landscaping, layout and scale are considered to be acceptable and in broad accordance with the aims of both the adopted Local Plan, the aims of the National Planning Policy Framework and emerging Local Plan policies as far as they can be attributed weight.

The granting of reserved matters approval is recommended.

8. RECOMMENDATION
Reserved Matters Approval be granted subject to conditions covering the following matters:-

1. Development to be carried out in accordance with amended plans.

2. Notwithstanding the submitted details, prior to the commencement of development, a revised house type for Plot 39 to address overlooking of the dwelling to the north shall be submitted and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the revised detail.

3. Working times and delivery times to be agreed in writing with the Local Planning Authority prior to the commencement of development.


5. Conditions required by the Local Highway Authority relating to the internal layout of the site.

6. Full details of external materials for houses to be agreed.

7. Notwithstanding the submitted boundary enclosure plan revised details shall be submitted and approved incorporating:

   (i) A wall to the north of Plot 198
   (ii) Screen walls to the south of the gardens of plots 163 and 164 and to the north of the garden of plot 142
   (iii) A screen wall to the roadside gardens to plot 179 and 180
   (iv) A screen wall to separate the cul-de-sacs serving 178-181 and 172 and 173.
   (v) A screen wall to the side garden of plot 133.
   (vi) A screen wall to the side garden of plot 69.
   (vii) Screen walls to the sides of gardens to plots 42 and 49.
   (viii) A screen wall to the side of garden to plot 31.
   (ix) A screen wall to the side of garden of plot 95.
Planning Committee 17\textsuperscript{th} January 2017

<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
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<tr>
<td>SITE ADDRESS:</td>
<td>Four Lane Ends Farm, Gibfield Lane, Hulland Ward</td>
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<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>Use of premise for commercial dog breeding and boarding purposes, replacement kennel and erection of new isolation unit</td>
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<tr>
<td>CASE OFFICER</td>
<td>Mr Chris Whitmore</td>
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<tr>
<td>APPLICANT</td>
<td>Mr and Mrs R Bowler</td>
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<td>PARISH/TOWN</td>
<td>Hognaston</td>
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<td>AGENT</td>
<td>Mr Brian Reid</td>
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<td>WARD MEMBER(S)</td>
<td>Cllr L. Rose</td>
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<tr>
<td>DETERMINATION TARGET</td>
<td>23\textsuperscript{rd} December 2016</td>
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<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>More than five unresolved objections received.</td>
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<tr>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>To consider the impact of the development on the local environment</td>
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MATERIAL PLANNING ISSUES

- Whether the use of the site for dog breeding and boarding purposes is acceptable having regard to its rural location;
- the impact of the development on the local environment including the residential amenity of the occupants of nearby residential properties;
- the impact of the replacement kennel building and isolation cubicle on the character and appearance of their surroundings, and;
- whether there would by any highway safety implications.

RECOMMENDATION

Approve with conditions.
16/00374/FUL

Four Lane Ends Farm, Gibfield Lane, Hulland Ward

Derbyshire Dales DC
Date: 06/01/2017
100019785

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Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3AA.
Telephone: (01629) 766100.
website: www.derbyshiredales.gov.uk
1. THE SITE AND SURROUNDINGS

1.1 Four Lane Ends Farm lies in open countryside at the junction of Gibfield Lane and Dog Lane, approximately 1km to the north west of Hulland Ward. No longer a working farm, the grouping comprises a large red brick dwellinghouse (see photograph 1) and a series of storage buildings mainly associated with a dog breeding business (see photographs 2 and 3). A dense hedge of native and evergreen species lines the north and south western boundaries and filters views of the site from Dog Lane and Gibfield Lane. Access is from Gibfield Lane. Brick Kiln Farm lies to the south west of the site and Over House Farm, Stydd Farm and The Hayloft are located to the south east.

2. THE APPLICATION

2.1 An application for replacement kennels and the erection of an isolation cubicle was received by the Local Planning Authority on the 25th May 2016. Although the applicant indicated that a commercial dog breeding business had been operating from the site for some time, no permission had been granted for such use by the Local Planning Authority. Based on the nature of the proposed business and the number of dogs to be accommodated at the site, it was not considered that such activity could be construed as being incidental to the domestic enjoyment of the existing dwellinghouse. The applicant was advised in an email of the 12th October 2016 that the application should include a change of use of the buildings / parts of the site that were being used for commercial dog breeding purposes. The application was re-registered on the 28th October and the description of development changed to include the use of the premise for commercial dog breeding purposes with the applicant’s agreement.
2.2 A block plan has been submitted, which shows capacity within the existing and replacement kennels to accommodate up to 54 dogs. The applicants seek retrospective permission for the replacement kennel building located at the southern end of the site and a new isolation cubicle to the north and permission to use these buildings and the remaining kennels for commercial dog breeding and boarding. The replacement kennel building is 18.3m wide by 4.65m deep and replaced a dilapidated wooden building. It is faced in polycarbonate sheeting and has a shallow dual pitched roof, 2.4m high to ridge and will be able to accommodate up to 15 dogs.

2.3 The new isolation cubicle is a smaller building, some 7.8m wide by 4.65m deep. It is of a similar appearance to the replacement kennel building and can accommodate up to 6 dogs. In between these buildings a series of existing kennels exist. The application seeks permission to use these kennels for breeding purposes. They are shown to be able to accommodate up to 36 dogs.

2.4 The application is accompanied by a noise survey, which considers noise outbreak from the replacement kennels and the isolation cubicle. The applicant’s agent has also prepared an assessment of projected traffic movements based on 15 boarding kennels and a reduction in the number of breeding dogs. These documents have been considered by the relevant consultees and are considered in more detail in the issues section of this report.

2.5 A supporting letter from the applicants vet also accompanies the application, which advises that the previous kennels presented significant challenges in terms of maintaining hygiene, disease control and safety. The new arrangements are considered to be a significant improvement in all these areas.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales District Council Local Plan (2005)

- SF4: Development in the Countryside
- SF5: Design and Appearance of Development
- EDT8: Design and Appearance of New Industrial and Business Premises
- EDT13: Buildings Associated with Agriculture, Forestry and Other Rural Based Enterprise
- EDT15: New Build Industrial and Business Development Outside of Settlement Frameworks
- NBE8: Landscape Character
- NBE12: Foul Sewage
- TR1: Access Requirements and the Impact of New Development
- TR8: Parking Requirements for New Development

3.2 Other:
- Derbyshire Dales Deposit Draft Local Plan (August 2016)

4. RELEVANT PLANNING HISTORY

4.1 None.
5. CONSULTATIONS

5.1 Hognaston Parish Council:

Object strongly to the current application on the following grounds:

1. The use of these premises for commercial dog breeding has caused an unacceptable level of noise to be inflicted on local residents, with in one particular case significant health problems arising in consequence. This is a rural area with a very low level of ambient noise, and the noise pollution generated by a breeding kennels therefore represents a major disturbance to the noise fabric of the local area. Nothing that has been allegedly done so far has alleviated the problem, and it appears unlikely that proposals submitted will satisfactorily reduce the noise impact. Hognaston Parish Council therefore object strongly to any change of use being granted.

The Parish Council point the Local Planning Authority to their comments relating to the noise report submitted in October 2016, namely:

The report appears to suggest that, because it would be unrealistic to reduce noise emissions below SAI levels (<10dB above background) in a countryside location, an assessment against ‘desirable noise levels’ is more appropriate. The Parish Council fundamentally disagrees with this as it condones noise levels that are not in harmony with a countryside location and which would ‘harm the character, appearance or environment of the site or its surroundings or … the amenity of occupiers of nearby properties’ (Policy EC1 in the Draft Local Plan).

Furthermore, even if taking DNL rather than SAI as the criterion, to bring noise levels within acceptable parameters would require, the report suggests the implementation in full of a number of retrospective fixes to the existing structures (e.g. insulated panels and sealing the structure). HPC queries the extent to which these can be (or would be) retro-fitted to an existing structure.

The report suggests that noise mitigation measures in respect of exercising dogs can be undertaken by the applicant – indeed such measures (based on somewhat conjectural and optimistic assumptions regarding the pattern of dog barking) appear to be required to bring the noise down to a level that is close to desirable noise level parameters. HPC suggests that in practice the assumptions and the measures proposed (e.g. number and type of dog being exercised) appear advisory, ill-defined, unrealistic, unenforceable and therefore too easily circumvented or ignored. With regard to un-kennelled dogs, the report further suggests that noise breakout could be mitigated by exercising dogs nearer the east facing façade: this would appear to impact adversely on the occupant of Gibfield Farm whose family currently suffer significantly from noise disturbance.

The additional mitigation measures proposed fail to give adequate reassurance that the level of misery being experienced by nearby residents will be reduced. Councillors are unconvinced that measures proposed within the latest noise survey will make any significant improvement to the noise levels experienced even if implemented in full – and, in the light of previous developments at this site, have little faith either in such measures being implemented willingly, or in the eventuality that they are not taken, being capable of enforcement. It should perhaps be noted that the initial application documents suggested that mitigation measures had already taken place with the façade construction and installation of ultrasonic behavioural systems; neither of these appears to have made any improvement to the noise impact on residents who regularly find the noise generated unbearable, both by day and night.
2. With regard to the proposals to develop the site, as previously stated these will lead to an increase in what is an already unacceptable level of noise from barking dogs experienced by adjacent residents. As such it contravenes Policy EC1 in the Deposit Draft Local Plan (August 2016) which states that business development should “be of a type and scale of activity that does not harm the character, appearance or environment of the site or its surroundings or to the amenity of occupiers of nearby properties”.

It is very clear from representations received from adjacent residents over the course of the last 2 years that the existence of a kennels business at this property causes significant disturbance, and that this can apply at all times of day or night and continue for lengthy periods of time. Nothing in the application indicates effective measures to reduce noise in the future.

The current application indicates that the numbers of animals for which the proposed development is intended to cater is c.50, which represents a potentially significantly enhanced level of noise from buildings not considered in the Noise Survey previously commissioned. There is no acknowledgement at any point in the application that the proposed development is to be used for boarding kennel purposes (with its significantly higher probability of noise generation), despite the applicant having also applied for a boarding licence, and making it quite clear in statements locally that the facility is intended for this purpose.

Atlow Parish Council:
Object.

Hulland Ward Parish Council:
Raise no objections.

5.2 Local Highway Authority:
Having regard to the projected traffic movement information provided make the following comments:

The proposal is to replace an existing dog kennel structure and to erect a new, 6 pen kennel; both in association with the existing dog breading business on site. Based on this information it’s unlikely this application will increase the traffic generation associated with the site by any significant level.

Whilst parking spaces are not formally marked out within the site, there are significant hardstanding areas available within the site for parking so it’s not envisaged these proposals will result in visitors having to park on the surrounding public highway.

Therefore, the Highway Authority has no objection to the application.

5.3 Environmental Health:
After reviewing this application and the submitted noise assessment report which suggests that noise breakout from the dog kennels exceeds background noise levels at the nearest noise sensitive receptor (therefore having the potential to cause a significant adverse impact on the residents) recommend conditions to secure the following:

- The sound insulation methods suggested by the noise consultant, for the 15 number replacement kennels and the 6 number isolation units, must be carried out in order to reduce the impact of noise from dog barking on the nearest residents. However any further sound insulation added to the kennels should be constructed in such a way as to allow for adequate ventilation and regular air changes. This
should be achieved whilst maintaining a necessary balance between adequate ventilation and the unnecessary removal of warm air. Ventilation is important to aid the control of disease, protect against odour accumulation and to prevent excessive humidity of the atmosphere. High humidity increases the risk of kennel cough and should be avoided. The above sound mitigation and ventilation methods should fall in line with the Chartered Institute of Environmental Health’s model conditions for dog boarding establishments. Details and specifications of the sound insulation methods to be used are to be submitted in writing to the Local Planning Authority for approval;

- The 15 number replacement kennels are to be used for the purpose of housing boarding dogs only and must not be used to house breeding stock;
- The new kennels designated for boarding purposes must not be used until the noise management plan has been submitted and agreed and the noise control measures are implemented to the satisfaction of the Local Planning Authority;
- The maximum number of boarding dogs on site must not exceed 15 at any one time;
- The applicant is to liaise with a noise consultant to discuss how the existing dog breeding kennels can be noise insulated, again allowing for adequate ventilation and air changes. Details and specifications of the proposed scheme of works must be submitted in writing to the Local Planning Authority for approval;
- The 6 number isolation units are to be used for the strict purpose of the isolation of sick dogs only and must not be used for the full time occupation of any dog at any time, in order to prevent and control the spread of disease among the dogs. On site records shall clearly document periods of use and associated reasoning plus follow-up actions. The said records shall be readily available to inspecting officers on request;
- The maximum number of breeding bitches on site must not exceed 20 at any one time;
- A site plan clearly showing where the breeding and boarding dogs are to be housed and the numbers of dogs to be housed within each building and each kennel shall be produced. The plan must also clearly mark out the isolation kennels and must be submitted to the Local Planning Authority for approval;
- A comprehensive noise management plan for both breeding and boarding dogs must be submitted in writing to the Local Planning Authority for approval. The noise management plan must include:
  - Details of any noise mitigation measures that are to be put in place to minimise dog barking on site for both breeding and boarding dogs, e.g. providing dogs with predictable routines, providing comfortable bedding, providing moderate stimulation including the provision of toys, regular exercise and human interaction. If ultra-sonic barking detectors or other such devices are to be used this must be with the consent of the owners of boarding dogs and it is recommended that a separate plan be drawn up to deal with boarding dogs without the need for this technology. A copy of this plan should be provided to the dog owners at the time of booking;
  - Details of the ratio of staff members to dogs;
  - Details of how household pets will be separated from breeding or boarding dogs;
  - Details of the exercise regime for both breeding and boarding dogs;
  - Details of how a suitable consistent level of management of the site is to be maintained;
  - Details of the arrangements to review the plan periodically and the arrangements to be put in place should problems arise;
- Clients shall not drop off or pick up dogs from the kennels before 8am or after 6pm.
6. REPRESENTATIONS

6.1 Nine representations, objecting to the proposed development including three from the occupants and relatives of Brick Kiln Farm and associated flat have been received. In addition, representations supporting the application from the occupants of Overbrook and Over House Farms have been forwarded on to the Local Planning Authority by the applicants’ agent.

In objecting to the proposed development the following concerns have been raised:

**Impact on residential amenity**

- Over the past four years we have been subjected to the noise of barking dogs from Four Lanes End, destroying the tranquillity of the countryside, and having a huge effect on the residential amenity of our property. My young children are often kept awake at night by the noise of the dogs. I am regularly woken up at any time during the night to the sound of the dogs. During the day we are frequently not able to enjoy being outside in our garden because of the noise, and despite many complaints still nothing has been done to solve the problem. If this planning application is allowed then the problem will continue to get worse.

- The development would not safeguard and improve the quality of life of people living in Derbyshire Dales or protect and enhance the environment of the Derbyshire Dales.

- CPRE supports development when it does not adversely affect the enjoyment and tranquillity of the countryside. The erection of more kennels will most definitely have an adverse effect on all those who seek to enjoy this tranquil, attractive area of Derbyshire.

- The barking noise control system (referred to in the Design and Access Statement) is not totally reliable so there must be formal noise limits set (reference is made to barking noise being heard 1km away).

- The development would be contrary to policy SF4 as there will be an adverse noise impact in the neighbourhood.

- We have visited Brick Kiln Farm on numerous occasions throughout the year and can confirm that the noise of barking dogs is becoming untenable.

- If planning permission is to be approved, the consequences to myself and other neighbouring residences will just be exacerbated by the already existing problems of excessive noise, from dog barking. It has had a tremendous effect on our quality of life making it almost unbearable and incredibly distracting at times, both inside and outside our home.

- The applicants are unable to control the continuous barking coming from the existing kennels, which has been going on for five years, causing tremendous disturbance and loss of amenity. A copy of a letter to the District Council written in 2013 concerning barking dogs is provided.

- I often travel this way to Carsington Water and I am disturbed by the noise of barking dogs. I have sometimes pulled over as it is quite distressing.

- This type of development needs to be situated well away from residential housing unless the barking can be controlled.
Dogs bark sometimes all day, every day.

We live approximately ¾ mile from the application site, yet we can still hear the dogs barking regularly.

**Impact on the character and appearance of the surrounding area**

- The rebuild is far larger than the previous unit.
- The development comprises overdevelopment of the site.

**Impact on highway safety**

- There will be an increase in traffic turning into and out of the site as a result of the boarding activity, close to a busy junction. An accident will inevitably occur.
- The retail offering from the development in a protected rural area on route to a major tourist and leisure site raises questions about vehicular movements and safety.
- The kennels are sited too close to a busy road (Dog Lane) and an even busier road junction.

**Other matters**

- The unit does not appear to be suitable for breeding dogs as it has been rebuilt as a boarding kennels unit.
- The occupants of Brick Kiln Farm are constantly bothered by deliveries and people turning up at their house trying to find the application site.
- I am surprised that this application has been registered with such porosity of supporting information and inaccurate documentation.
- Before the application is considered all the previous development on the site needs to be regularised.
- From the work that has been undertaken we believe that double the number of kennels is being proposed.
- It will only be a stepping stone for further development of the existing dog business.
- No one objects to Mr and Mrs Bowler wanting to make an honest living through breeding dogs; however, when that living disrupts the day to day lives if so many local residents it is totally unacceptable and therefore further development and expansion must be avoided on these grounds.
- Happy dogs do not bark constantly.
- Several concerns are raised with regard to misleading or inaccurate information contained within the application documentation. Concerns regarding the lack of information in relation to the existing and proposed number of dogs to be kept on site, the construction of the original and replacement kennels and noise attenuation
properties, nature of the business, parking provision and traffic generation and disposal of dog waste have also been raised.

7. **ISSUES**

7.1 The main issues to consider in respect of this particular application, having regard to the relevant provisions of the development plan, national guidance, comments from the Hognaston Parish Councils and the public are:

- **a)** whether the use of the site for dog breeding and boarding purposes is acceptable having regard to its rural location;
- **b)** the impact of the development on the local environment including the residential amenity of the occupants of nearby residential properties;
- **c)** the impact of the replacement kennel building and isolation cubicle on the character and appearance of their surroundings, and;
- **d)** whether there would be any highway safety implications.

7.2 One of the main concerns with the application as originally submitted was the lack of information in relation to the existing and proposed number of dogs to be kept on site and the lawfulness of the existing dog breeding operation. Whilst planning permission has not been previously sought for the use of the buildings / part of the site for dog breeding purposes, the scale and nature of the current and proposed operation is such that it cannot be construed as being incidental to the domestic enjoyment of the main dwellinghouse. The applicants have since clarified in their statement of existing and projected traffic movements that the proposed number of breeding dogs will reduce and that a new boarding dog business will operate from the site (which would accommodate a maximum of 15 dogs). Licensing applications have been granted in the past for up to 30 breeding dogs to be kept at the site. The applicants reduced this number to 20 in their latest breeding dog license application which was granted and applied separately for a boarding license for up to 21 dogs (presumably on the basis that it was assumed that 6 dogs could be accommodated in the isolation cubicle) which is pending consideration.

7.3 Adopted Derbyshire Dales Local Plan Policy SF4 deals broadly with development in the countryside and is supportive of development that is appropriate in scale and nature to a rural area, preserves the character and appearance of the countryside and minimises any adverse impact on the local environment. Such provisions align with guidance contained within the National Planning Policy Framework (NPPF). Policy EDT13 deals with buildings associated with agriculture, forestry or other rural based enterprise. In the preamble to this policy it is recognised that businesses such as boarding kennels and equestrian centres are generally acceptable in the countryside. The policy requires the size of any new buildings to be commensurate with the needs of the rural based enterprise, to not have an adverse impact on the character and appearance of the immediate or wider landscape and to be well related to existing buildings associated with the activity with which they are required. Whilst the lawful status of the buildings which have been used for commercial dog breeding is unclear, policies within the local plan support the conversion and re-use of such buildings for industrial and business use.

7.4 Comments from the public point to the kennels being located in an unsuitable location, close to existing residential properties. Notwithstanding that the preamble to Policy EDT13 which states that boarding kennels will generally be acceptable in the countryside, it is recognised that in close proximity to residential dwellings, barking dogs can be a source of noise nuisance. Adopted and emerging Local Plan policies require that consideration be given to the appropriateness of the scale of any business or industrial activity and the impact of such development on the local environment. It is clear that noise from the current activity on the site has and continues to affect the residential amenity of the occupants of nearby residential dwellings and a noise abatement notice has been recently served on
the applicants. The applicants have, however, commissioned a noise assessment which concludes with some noise attenuation measures built into the recently constructed kennels and isolation cubicle noise outbreak from these buildings can be reduced to an acceptable level so as to not result in any significant nuisance to nearby residents. The District Councils Principal Environmental Health Officer considers this assessment to be sound and with conditions which control the number of dogs and in which building they are accommodated (i.e. boarding and breeding dogs kept separate), measures to insulate the existing and recently constructed kennels to reduce noise outbreak and a management plan to agree where, when and the number of dogs that are exercised at any one time are confident that noise can be reduced to a level that would not result in nuisance to neighbouring residents.

7.5 The applicants advise that dogs have been bred on the site for some time and that a certificate of lawfulness could be sought on this basis. Twenty breeding and fifteen boarding dogs would represent a slight increase in the number of dogs that previous licensing applications have permitted. With conditions to secure appropriate noise attenuation measures, restrictions on dog numbers and a noise management plan, it is considered that the development would not result in unacceptable noise levels, which cannot be said of the current operation.

7.6 The siting, scale and appearance of the new buildings is such that they do not have an adverse impact on the character and appearance of their surroundings / this part of the countryside. They are well related to the main dwellinghouse and well contained / screened by existing landscape features, including a dense roadside hedge. The Local Highway Authority have advised that the level of traffic associated with the proposed use of the site would not raise any highway safety concerns and that there are sufficient areas of hardstanding for the anticipated number of visitor vehicles to be parked clear of the public highway.

7.7 Having regard to the nature of the proposed use and the number of dogs that will be accommodated on site and the associated impact on the local environment and the local highway network, it is considered that the proposed development, subject to conditions to effectively control noise and to agree the method of disposal of dog faeces (a matter raised by a number of local residents), would satisfy the relevant provisions of the development plan and national guidance and a recommendation of approval is put forward on this basis.

OFFICER RECOMMENDATION:
Planning permission be granted subject to the following conditions:

1. ST02a – Time Limit on Full.

2. Within 3 months of the date of this decision, noise insulation measures shall be introduced to the existing kennels to remain in use for commercial breeding purposes in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority and retained thereafter in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

3. The sound insulation recommendations set out in the Noise Impact Assessment by Peak Acoustics dated 20th July 2016 in relation to the replacement kennel (to house boarding dogs) and isolation buildings set out in the 1:500 Scale Proposed Block Plan dated 5th October 2016 shall be carried out in full within 3 months of the date of this decision unless otherwise agreed in writing by the Local Planning Authority and retained thereafter in perpetuity.
4. Within 3 months of the date of this decision, details of how all kennels on the site will be ventilated following the introduction of the approved noise insulation measures shall be submitted to and approved in writing by the Local Planning Authority. The ventilation shall thereafter be installed in accordance with the approved details.

5. The 15 number replacement kennels set out in the 1:500 Scale Proposed Block Plan dated 5th October 2016 shall be used to house boarding dogs only and shall not at any time be used to house breeding stock.

6. The maximum number of boarding dogs on site shall not exceed 15 and the maximum number of breeding bitches on site must not exceed 20 at any one time.

7. The 6 number isolation units are to be used for the strict purpose of the isolation of sick dogs only and must not be used for the full time occupation of any dog at any time, in order to prevent and control the spread of disease among the dogs. On site records shall clearly document periods of use and associated reasoning plus follow-up actions. The said records shall be readily available to inspecting officers on request.

8. Within 3 months of the date of this permission a comprehensive noise management plan for both breeding and boarding dogs shall be submitted to and approved in writing by the Local Planning Authority. The noise management plan must include:

   a. Details of any noise mitigation measures that are to be put in place to minimise dog barking on site for both breeding and boarding dogs, e.g. providing dogs with predictable routines, providing comfortable bedding, providing moderate stimulation including the provision of toys, regular exercise and human interaction. If ultra-sonic barking detectors or other such devices are to be used this must be with the consent of the owners of boarding dogs and it is recommended that a separate plan be drawn up to deal with boarding dogs without the need for this technology. A copy of this plan should be provided to the dog owners at the time of booking;
   b. Details of the ratio of staff members to dogs;
   c. Details of how household pets will be separated from breeding or boarding dogs;
   d. Details of the exercise regime for both breeding and boarding dogs;
   e. Details of how a suitable consistent level of management of the site is to be maintained;
   f. Details of the arrangements to review the plan periodically and the arrangements to be put in place should problems arise.

The approved plan shall be strictly adhered to throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

9. Customers shall not drop off or pick up dogs from the kennels before 8am or after 6pm.

10. Within 3 months of the date of this decision details of the method for the storage and disposal of foul waste from the use of the kennels shall be submitted to and approved in writing by the Local Planning Authority. Foul waste shall thereafter be stored and disposed of in accordance with the approved details.

Reasons:

1. ST02a.

2-7. For the avoidance of doubt and in the interests of safeguarding the amenities of the occupants of nearby residential properties in accordance with the aims of Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).
8-9. In the interests of safeguarding the amenities of the occupants of nearby residential properties in accordance with the aims of Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

10. In the interests of protecting the local environment in accordance with the aims of Policy NBE12 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

Footnotes:

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 has addressed concerns with regard to the scale and nature of the proposed business operation.

2. The applicant is advised that any sound insulation added to the kennels should be constructed in such a way as to allow for adequate ventilation and regular air changes. This should be achieved whilst maintaining a necessary balance between adequate ventilation and the unnecessary removal of warm air. Ventilation is important to aid the control of disease, protect against odour accumulation and to prevent excessive humidity of the atmosphere. High humidity increases the risk of kennel cough and should be avoided. The above sound mitigation and ventilation methods should fall in line with the Chartered Institute of Environmental Health’s model conditions for dog boarding establishments.

3. The applicant is advised to liaise with a noise consultant to discuss how the existing dog breeding kennels can be noise insulated whilst allowing for adequate ventilation and air changes.

This Decision Notice relates to the following documents:
1:1250 Scale Site Location Plan;
1:100 Scale Replacement Kennel and Isolation Building Elevations and Floor Layout Plan numbered SW16/20, and;
Document Titled Design and Access Statement received by the District Council on the 25th May 2016;
Noise Impact Assessment by Peak Acoustics dated 20th July 2016 received by the District Council on the 29th September 2016;
Amended 1:500 Scale Block Plan, and;
Statement of Existing and Projected Traffic Movements received by the District Council on the 17th November 2016.
<table>
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<tr>
<th>APPLICATION NUMBER</th>
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<tr>
<td>SITE ADDRESS:</td>
<td>Mushroom Farm, Rodsley Lane, Yeaveley</td>
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<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>Erection of Nine Dwellings and Associated Open Space</td>
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<tr>
<td>CASE OFFICER</td>
<td>Mr Chris Whitmore</td>
</tr>
<tr>
<td>APPLICANT</td>
<td>Mr Anthony Hall</td>
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<td>PARISH/TOWN</td>
<td>Yeaveley</td>
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<td>AGENT</td>
<td>Mr Jim Malkin</td>
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<tr>
<td>WARD MEMBER(S)</td>
<td>Cllr. Anthony Morley</td>
</tr>
<tr>
<td>DETERMINATION TARGET</td>
<td>18th October 2016</td>
</tr>
<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>The number of dwellings to be provided is more than 3 outside of the settlements of Matlock, Ashbourne, Wirksworth and Darley Dale.</td>
</tr>
<tr>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>To assess the impact of the development on the character and appearance of this part of the village and the local environment.</td>
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**MATERIAL PLANNING ISSUES**

- The appropriateness of the amount of development and the sustainability of the location, in terms of access to services and facilities;
- the impact of the development on the character and appearance of this part of the settlement / local landscape and residential amenity;
- the impact of the development on species protected by law;
- highway safety and impact on the public footpath;
- land drainage the impact of the development on existing infrastructure, and;
- whether the development reflects local needs, particularly with regard to affordable housing.

**RECOMMENDATION**

Approval with conditions.
16/00587/FUL

Mushroom Farm, Rodley Lane, Yeaveley

Derbyshire Dales DC

Date: 06/01/2017

100019785
1. THE SITE AND SURROUNDINGS

1.1 The application site is situated at the eastern end of Yeaveley Village. It includes a yard upon which a series of storage buildings and poly tunnels associated with the former use of the site as a Mushroom Farm sit (see photograph 1). In recent years the yard, buildings and poly tunnels have been used by the applicant (a builder) for storage. A lawful existing use certificate was issued by the District Council in 2014 which established the use of the central part of the site and existing structures for the storage of building materials. The application site includes scrubland, which surrounds the yard area and a pond located at the western end of the site (see photograph 2). In total the site covers an area of 0.64ha.

1.2 To the south, on the opposite side of Rodsley Lane and west are a series of residential properties (see photographs 3 and 4). The site is contained to the north and east by earth bunds, hedgerows and high conifer trees.

1.3 Public Footpath no. 12 ‘Yeaveley’ crosses the central part of the site in an east to west direction. The site rises gently in a northerly direction.
2. THE APPLICATION

2.1 This application follows the refusal of an application for outline planning permission to erect four detached dwellings on the central part of the site, at committee in January 2015 for the following reasons:

1. The erection of 4 no. dwellinghouses in the location proposed would relate poorly to existing built development in this location and, as a consequence, would result in significant harm to the character and appearance of this part of the settlement / countryside contrary to the aims of Policies SF5 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

2. The application as submitted is not accompanied by sufficient information to clearly demonstrate the presence or otherwise of Great Crested Newts and the extent that they may be affected by the proposed development. In the absence of adequate information, the Local Planning Authority are unable to conclude that this protected species is adequately safeguarded and cannot therefore discharge its duties in respect of regulation 9(5) of the Habitats Regulations contrary to the aims of Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

3. The application as submitted makes no on or off site provision towards affordable housing to meet the local housing needs of the District. The lack of contribution towards affordable housing to meet the needs of the district conflicts with guidance contained within the National Planning Policy Framework (2012).

2.2 The application seeks full planning permission to erect nine dwellings on the site. The dwellings will be loosely distributed across the site and will be accessed off a centrally positioned spine road. An area of open space is shown around the existing pond, which will be retained as a feature of the site. The housing mix will comprise a mixture of single and two storey two and four bedroomed dwellings. A pair of cottage style houses will front / address Rodsley Lane. Behind these properties 2 no. detached, two storey dwellings and five detached bungalows are proposed. All the dwellings are of traditional appearance. It is anticipated that they will be constructed in red brick with plain clay tiled roofs. The bungalows will sit behind the two storey houses on higher ground and will be simple buildings in their form and appearance, with pitched roofs. The first floor of the two storey dwellings will be partly incorporated within the roof space. They will also have pitched roofs and will feature gablets and chimney stacks. Plots 3, 4 and 7 are shown to have detached single storey double garages.

2.3 The application is accompanied by a Great Crested Newt Survey, which concludes that the pond supports a number of breeding amphibian species and a single Great Crested Newt.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales District Council 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 of Settlement Frameworks
NBE5: Development Affecting Species Protected By Law or Are Nationally Rare
NBE8: Landscape Character
3.2 Other:
The National Planning Policy Framework (2012)
Derbyshire Dales Deposit Draft Local Plan (August 2016)

4. RELEVANT PLANNING HISTORY

4.1 15/00575/OUT Erection of four dwellings (outline) – Refused

4.2 14/00088/CLEUD Certificate of Lawful Existing Use or Development – Granted
Use of site for builder’s yard and storage

5. CONSULTATIONS

5.1 Parish Council:

Object for the following reasons:

1. The application is for too many houses. The previous application for this site was for 4 dwellings (which was supported by the Council) but, following consultation with the Planning Authority the number has been raised by more than 100% to 9 on exactly the same total area.

2. This significant increase in dwellings will inevitably increase the load on the infrastructure of the village especially with regard to the increase in vehicles travelling along some very narrow roads. Additionally, the egress from the site needs significantly better sight lines than are shown on the draft plans which would encroach upon the land of the dwelling nearest the road.

3. It is not clear who would maintain the 'open space'. Without a concrete commitment to the long term and regular maintenance of this space, it will become an eyesore within the development.

The Parish Council have also written to the Local Planning Authority separately on behalf of local residents to advise that they are not happy with the footpath being reinstated on its legal alignment as it does not take into consideration any of the agreements with the County Council Rights of Way Officers.

5.2 Local Highway Authority:

Initial response:

The Highway Authority has previously raised concerns regarding the level of emerging visibility that can be achieved from the sites existing access onto Rodsley Lane.

Although Rodsley Lane is subjected to the national speed limit, during a recent site visit it was evident that passing vehicle speeds are suppressed due to the alignment of the road and its limited width in places. It was estimated that passing vehicle speeds are approximately 25mph in both directions.
In accordance with current design guidance, based on these reduced passing speeds, its recommended the sites existing vehicular access is provided with emerging visibility splays of 2.4m x 33m in both directions. Whilst this level of visibility splay seems to be achievable in the western (critical) direction, it was difficult to assess if it was achievable in the eastern direction due to overgrown (third party) vegetation. Therefore, for the avoidance of doubt, the Highway Authority requested that the applicant submit a detailed drawing illustrating what level of emerging visibility can be achieved onto Rodsley Lane in both directions from a 2.4m set back distance.

Following receipt of the above comments the applicant commissioned a highway impact assessment, which considered the speeds of vehicles along this stretch of Rodsley Lane. Notwithstanding that the speed of passing vehicles was less than 25mph, the applicant has been able to demonstrate that the required visibility sightlines can be achieved over land controlled by the application or public highway.

Second response:

The supporting documentation explains how the recommended emerging visibility splays can be achieved and these are illustrated on submitted drawing number F16172/01. This drawing is proposing to formally mark out the sites existing vehicular access to define the stop location of an exiting vehicle. Adequate emerging visibility can be achieved from the give way markings and a carriageway width of 5m+ is maintained on Rodsley Lane, which is satisfactory. Please note, the access modifications should be marked out using white lines only and not a kerb radii.

Internally, each plot is being provided with an adequate number of parking spaces and there is a shared turning head at the top of the site which will enable delivery vehicles to enter the site, turn and exit in a forward gear. Whilst no provision has been included to accommodate refuse vehicles, a bin store adjacent to Rodsley Lane can be created to provide a safe place for bins to be stored on collection days without causing an obstruction. Given the layout of the site the development shall remain private.

The Highway Authority concludes subject to conditions that the development would be acceptable in highway safety terms and raises no objections.

5.3 Derbyshire County Council Rights of Way Section:

Not consulted in respect of this application, however, advised the following in respect of application code ref. 15/00575/OUT:

Yeaveley Public Footpath 12 is shown on the Definitive Map crossing the site. Although the path across the site is currently obstructed the proposed development would have a negative impact on the path and a solution will need to be found. The path across the site will need diverting to allow the development to take place and I suggest further discussions take place with this office to move matters forward and to find a solution to the other obstructed section of path at the rear of the properties at Priory Close.

5.4 Derbyshire Wildlife Trust:

Initial Response:

The ecology report has raised a number of concerns with the conclusion of their Great Crested Newt (GCN) surveys.

From the ecology report (2016) it does not appear a desk study was undertaken, which would have highlighted previous records. The ecology survey undertook three surveys,
due to the pond drying up the survey effort stopped on site visit 4. It is unclear if the pond was revisited to check the level of water throughout the GCN survey period (which is considered to be until mid-June). Nevertheless a female GCN was present in the pond. The report concludes it is an isolated newt, this does not appear to be the case as a record of GCN is present 170m from the pond surveyed, which would suggest there are additional ponds in the area which could support GCN. The appendix of the report informs that the majority of the development is within 50m of the core habitat, which is to be lost to facilitate the proposals, but it has not been discussed within the report. It cannot be concluded that newts would not be present within the site.

Newts disperse over land to forage for food, and move between ponds. The distances moved during dispersal vary widely according to habitat quality and availability. At most sites, the majority of adults probably stay within around 250m of the pond, so the density of individuals gradually decreases away from the pond. However, newts may well travel further if there are areas of high quality foraging and refuge habitat extending beyond this range. For developments that could impact on GCN, planning authorities need information on the impacts of the development on GCN to be submitted up-front with the planning application. At present, this information is lacking from the report and it is unclear how the proposal will safeguard GCN.

The report should show sites for pond and other habitat creation/enhancement, the locations of newt exclusion fencing, the location of receptor sites for translocated newts, etc. It should be clear about timing and working methods. At present, this information is lacking from the report and it is unclear how the proposal will safeguard GCN.

Taking the above into consideration, the Local Planning Authority will not be able to discharge its conditions under the Habitat Regulations wouldn’t be able to show how they have considered the three tests without appropriate mitigation. Case law indicates that Local Planning Authorities should consider the presence of GCN and the derogation tests of the Habitats Regulations prior to determination of applications in order to be compliant with the legislation.

Following receipt of the above comments the applicant prepared a detailed mitigation strategy which proposed that the development site and pond would be subject to fencing, trapping and translocation of newts to allow the pond to be restored and the site developed. Once the pond has been restored, it would be ‘opened up’ to the wider area, with the development site ring fenced, so that construction works can proceed unhindered.

The strategy advises that the trapping period must be during the active season for newt (weather dependent but approx. mid-March to mid-Oct). Once the trapping period is complete, it is recommended that the site be cleared under ecological supervision of the rubble piles, structures and vegetation. Once done and confirmed as clear of newts, the perimeter newt fence will stay up and works will be undertaken.

Second response:

Raise no objections to the proposed mitigation proposed for newts, however, recommend a number of conditions enhance the recommendations made and to ensure the longevity of the biodiversity on site including a LEMP, monitoring and habitat enhancement. The applicant has agreed to conditions to secure such enhancements on site.

5.5 Head of Housing (Derbyshire Dales District Council):
Advised verbally that given the existence of Gravelley Bank Mews opposite and problems finding occupants for those properties that they would be willing to accept an off-site financial contribution towards affordable housing in this case.

6. **REPRESENTATIONS**

6.1 Representations from three local residents including one representing eight residents at Priory Close, objecting to the proposed development have been received. Concerns are raised with regard to the following:

**Principle and Density**

We are surprised at the number of new houses since the previous application for four dwellings was turned down. The use as a builders yard is being used to intimidate people i.e. if plans for housing are not accepted then the area may be used for the parking of HGVs. Although I agree that the area needs to be developed with a few attractive houses, nine houses on such a small area of land will look cramped.

**Sustainability of Location and Impact of Existing Services and Facilities**

There are no public amenities in Yeaveley. There are no pavements for walking. There is no bus service in Yeaveley. All new residents would have to rely on their own cars. The local school, Queen Elizabeth Grammar School, is full.

**Highway Safety and Impact on the Public Footpath**

The access to the site is inadequate. Rodsley Lane is narrow and cannot be widened. 18 additional vehicles would find it difficult to access the site off the narrow lane. The public footpath which crosses the site is not, in our opinion, in the right location. The development may have a detrimental impact in terms of increased road traffic. Reference is made to discussions, which were held with a Right of Way Officer at the County Council in which a proposal to move the footpath to the rear of 10 and 12 Priory Close was seen as beneficial. There are no commercial lorries going in and out of the Mushroom Farm and never has been. Yeaveley would not be able to withstand another 20 or more cars regularly driving to and from the village. The roads are in a poor state as it is.

**Residential Amenity**

The occupants of no. 8 Priory Close raise concerns with regard to the impact of the development on their privacy. The use of the public footpath in the way proposed will have a detrimental impact upon the gardens and lifestyles of eight properties in Priory Close.

**Surface Water Drainage**

Utilising the pond to collect surface water run-off is likely to cause flooding.

**Ecological Impacts**

We have seen newts in this pond and are concerned about their habitat.
We object to any trees being taken down.
There are newts in our pond, which is close to the development site.

Other Matters

Questions are raised as to who will maintain the open space and public footpath. The development will put increased demands on the sewage system. There is a strong possibility that asbestos material has been used in the manufacturing of the poly tunnel buildings – this should be disposed of in an appropriate manner.

7. OFFICER APPRAISAL:

Planning Policy Context

7.1 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). The National Planning Policy Framework (NPPF) was published in March 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.

7.2 It had been the case that the District could not demonstrate a rolling 5 year supply of housing land (plus 20% as required by the NPPF). However, based on new analysis of development that will come forward in the next 5 years it is considered that the Council can now identify a rolling five year supply of housing land. It is also the case that policies and sites identified within the deposit draft local plan will provide for enough housing land throughout the plan period to meet the District Councils objectively assessed housing needs. Policies and strategic land allocations contained within the deposit draft local plan can only be afforded limited weight at this time, given that no part has been examined by a planning inspector.

7.3 Housing policies contained within the Adopted Derbyshire Dales Local Plan (2005) do not envisage new housing development beyond the plan period and is based on outdated housing needs information. Policies which deal with new housing development are therefore considered to still be out of date. Recent appeal decisions have confirmed this position, in that Policies SF4 and H4, which restrict new residential development outside of the settlement framework boundaries have been considered to be out of date and have been afforded no weight in the decision making process.

7.4 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. The remainder of this report will analyse the scheme against this guidance. In making a balanced judgement the decision taker is effectively asked to weigh the economic, social and environmental benefits and disbenefits against one another and only where those disbenefits significantly and demonstrably outweigh the benefits reject the scheme.

7.5 Having regard to the policies of the development plan that have weight, guidance contained within the National Planning Policy Framework (NPPF) and the consultee and public comments received the key themes that emerge are:

a) the appropriateness of the amount of development and the sustainability of the location, in terms of access to services and facilities;

b) the impact of the development on the character and appearance of this part of the settlement / local landscape and residential amenity;
c) the impact of the development on species protected by law;  
d) highway safety and impact on the public footpath;  
e) land drainage the impact of the development on existing infrastructure, and;  
f) whether the development reflects local needs, particularly with regard to affordable housing.

The amount of development and suitability of the location

7.6 Within the National Planning Policy Framework at paragraph 17 are a series of core planning principles. They state that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs, always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, recognise the intrinsic character and beauty of the countryside, support the transition to a low carbon future in a changing climate, taking full account of flood risk, allocate land for development on land of lesser environmental value and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable, amongst other considerations. Policy S3 within the deposit draft local plan aligns with this guidance, and whilst it can only be afforded limited weight at this time seeks to locate the majority of new development towards the main market towns and larger settlements within the Derbyshire Dales District.

7.7 Yeaveley is a tier 5 settlement. Whilst it is anticipated that new housing will be constructed within the physical confines of such settlements through infill and consolidation of the existing built framework, policy S3 allows for the redevelopment of previously developed sites where such development would lead to positive environmental improvements and would not have a harmful impact on settlement pattern or result in harmful encroachment into the countryside. The site contains a series of dilapidated storage buildings associated with the former use of the site as a Mushroom Farm and in more recent years as a Builders Yard. The site lies on the fringes of the settlement and is separated from the open countryside by tall leyland cypress and laurel hedge planting to the east and native shrub and tree species to the north. Taking the above into consideration it is not considered that the development would be at odds with policies contained within the deposit draft local plan.

7.8 Notwithstanding the above, it is important that the overall scale of development in lower order settlements is commensurate to their size and reflect their position in the settlement hierarchy. Yeaveley is a tier five settlement in the deposit draft local plan. It is recognised that there is a lack of basic facilities to meet day to day requirements, a point raised by a local resident. A Public House, which has been closed for some time and a Church are the only services within the village. The development would represent a 9% increase in the total number of homes within the built up part of the village. Considering the previously developed nature of the site and the environmental benefits associated with its redevelopment and its relationship with the existing settlement / containment by existing landscape features, the level of growth proposed in this case is considered to be acceptable.

Impact of the development on the character and appearance of this part of the settlement / local landscape and residential amenity

7.9 Paragraph 61 of the NPPF advises that securing high quality and inclusive design goes beyond aesthetic considerations and that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Paragraph 58 advises that decisions should aim
to ensure that developments respond to local character and history and reflect the identity of local surroundings. Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan align with this guidance. The application site lies on the fringes of the settlement. It sits immediately to the east of Priory Close, an estate of bungalows. On the opposite side of the road is an estate of modern affordable houses and a farm grouping, comprising a farm house and series of converted farm buildings. As previously discussed the site is well contained by existing landscape features and is well related to the existing settlement. The amended scheme is considered to be an appropriate response to context. At the rear of the site where land levels are higher, bungalows are proposed. They have been purposefully designed to appear like simple utilitarian buildings and follow the irregular layout of the bungalows to the west. At the front of the site to the east of the spine road two storey houses are proposed. A pair of modest cottages will address Rodsley Lane, with two larger detached dwellings behind. The two storey dwellings will be faced in red brick and plain tiles and will incorporate traditional design detailing. The layout of the dwellings would relate well to existing settlement pattern and would not result in overdevelopment of the site, incorporating large areas of open space. Whilst a neighbour is concerned that their privacy will be compromised, where the development site abuts the boundary with the dwellings off Priory Close the dwellings will be single storey high. Their relative position and height is such that there would be no significant overshadowing or loss of privacy.

The impact of the development on species protected by law

7.10 A concern with the previous application was the lack of survey information in relation to Great Crested Newts. The Great Crested Newt Survey that accompanies this application found that the pond supports a number of breeding amphibian species and a single Great Crested Newt. At the request of Derbyshire Wildlife Trust a detailed mitigation strategy has been prepared to safeguard this species, the detail of which is considered to be acceptable. The Local Planning Authority is therefore able to discharge its duties in respect of regulation 9(5) of the Habitats Regulations and the development is considered to accord with the aims of Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the NPPF.

7.11 The application also provides an opportunity to enhance newt and other wildlife habitat. The applicant has agreed to conditions to enhance the recommendations made in the mitigation strategy to ensure the longevity of the biodiversity on site including a LEMP, monitoring and habitat enhancement. Such habitat enhancement is an environmental benefit of the which will need to be weighed in the overall planning balance.

Highway safety and impact on the public footpath

7.12 The applicant has demonstrated that an appropriate level of visibility onto Rodsley Lane to accommodate the proposed development can be achieved, without having a detrimental impact on the rural character of the lane. Although reference has been made to the narrowness of the lane and problems of traffic, the Local Highway Authority have raised no concerns with regard to the capacity of the local road network to accommodate an additional 9 dwellings. The dwellings are shown to be served by an appropriate level of parking and manoeuvring space.

7.13 Some concern has been raised with regard to the provision of the public footpath across the site. Whilst reference has been made to discussions that have been had with the County Council Rights of Way Section regarding rerouting the public footpath at the rear of no’s 10 and 12 Priory Close, this would involve other land owners agreeing to such a change and would involve works outside of the application site area. The application proposes to reinstate the footpath on its legal alignment, which would be a benefit of the development.
Land drainage the impact of the development on existing infrastructure

7.14 In respect of the previous application the Land Drainage Authority referred the Local Planning Authority to their standing advice with regards to drainage. The development is for up to nine dwellings. The applicant will need to demonstrate that appropriate drainage will be put in place to deal with surface water, without it discharging onto neighbouring land and the highway as part of the building regulations process and approval of conditions recommended by the Local Highway Authority. Concern has also been raised with regard to the ability of the sewerage system to accommodate the level of development proposed. This is a matter which will need to be agreed with the sewerage authority as part of the building regulations process and again would not constitute a reason for refusing this application.

7.15 The development is for less than nine houses and despite concerns being raised that the nearest secondary school is full, the County Council have advised on sites of a similar scale there is capacity within the school to accommodate the additional school places that would be generated. The planning practice guide also advises that infrastructure contributions through planning obligations should not be sought on developments of 10-units or less and which have a maximum combined gross floorspace of no more than 1,000 square metres. Whilst the combined floor area of the proposed dwellings would exceed 1000 square metres, the nature of the dwellings and number of additional units that would be created is such that no requirement for a contribution towards secondary education can be made in this case.

7.16 The applicant proposes to form an area of open space upon which it is proposed to construct an equipped children’s play area. Such a facility is currently lacking in the village and would be a benefit of the development. Concern has been raised as to who will maintain the area of open space. A condition is recommended to secure the long term maintenance and management of the space. It is anticipated that this would be through a landscape management company paid for by the future occupants of the dwellings.

Whether the development reflects local needs, particularly with regard to affordable housing

7.17 Paragraph 50 of the NPPF states that:

“To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

• plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
• identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand ……”

7.18 Policy HC11 in the deposit draft Local Plan seeks to ensure that new housing meets the communities needs and recommends the following mix of market housing:

1-bed properties: 5%, 2-bed properties: 40%, 3-bed properties: 50%, 4-bed properties: 5%.

The policy, however, recognises that the larger the scale of development the more opportunity exists for a wider range of dwelling types and sizes and only seeks to secure the above mix on residential developments of more than 10 units. Whilst it is proposed to construct a large number of four bedrooomed dwellings, 2 modest two bedrooomed dwellings
are proposed. Five of the larger dwellings will, however, be bungalows. There is recognition in the deposit draft local plan that there is a need for specialised accommodation to help meet the needs of the elderly. The proposed mix is considered to be acceptable in this regard.

7.19 As previously discussed, guidance within the National Planning Practice Guide and policies contained within the deposit draft local plan advise that infrastructure contributions through planning obligations should not be sought on developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. The applicant has confirmed that the combined floorspace of the dwellings will exceed 1000 square metres in this case. For development involving more than 10 dwellings or with a combined floorspace of more than 1000 sq. m the deposit draft local plan requires at least 30% of the net dwelling proposed to be affordable. In the preamble to this policy reference is made to 33% being achievable without the introduction of CIL on smaller schemes such as this. Having consulted with the housing team they have advised that they would accept an off-site financial contribution toward affordable housing in this case. A figure of £25,450 per unit has been drawn up and consistently applied to applications seeking permission for new housing development across the district. A contribution of £75,586.50 would therefore be required in this case (£25,450 x 9 x 0.33). The applicant has agreed to make such a contribution, which would need to be secured through a legal agreement.

The Planning Balance

7.20 The Planning Policy Context part of this ‘issues’ section sets out the Local and National Policy Guidance that apply in assessing the merits of this application and the other material considerations that need to be weighed in the planning balance.

7.21 Although the development on the face of it is contrary to the Adopted Local Plan recent appeal decisions have confirmed that Policies SF4 and H4, which restrict new residential development outside of the settlement framework boundaries defined in the Adopted Derbyshire Dales Local Plan (2005) have been considered to be out of date and have been afforded no weight in the decision making process. It is consequently important in this case to have full regard to the guidance in the NPPF reflected in policies contained with the deposit draft local plan.

7.22 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. Although national guidance indicates that applications for new housing development should be granted where relevant policies are out of date, the council can now identify a rolling five year supply of housing land and allocations within the emerging local plan will also provide enough housing land throughout the plan period to meet the District Councils objectively assessed housing needs. Policies in the deposit draft local plan also make provision for development on previously development sites in villages such as Yeaveley, particularly where development would lead to environmental benefits, would be well related to the existing settlement pattern and would not result in harmful encroachment in the countryside. It is, however, important in line with guidance contained within the NPPF guidance to weigh the social, economic and environmental benefits and disbenefits against one another in reaching a balanced judgement on the sustainability of a scheme.

7.23 In this case the social dimension would be served by the delivery of a proportionate number of new homes in the case of Yeaveley, a fifth tier settlement to help underpin the remaining services and facilities in the village and other nearby villages, payment of
monies towards affordable housing and the delivery of a small number of houses to help meet the housing needs of the Derbyshire Dales District.

7.24 The economic dimension would be limited to employment generated during construction of the new dwellings and the benefit to businesses in the local area from additional resident spend. Whilst the loss of the existing employment use is a disbenefit of the development, the existing yard / buildings and their proximity to existing residential properties is such that they would not be conducive to alternative employment use.

7.25 In environmental terms the demolition of the existing storage buildings and erection of a carefully laid out and designed scheme of 9 dwellings would enhance the character and appearance of this part of the village. The development would also make good use of a previously developed site, without resulting in harm to the existing settlement pattern or encroaching into the countryside. The provision of an area of open space and equipped childrens play area are also benefits of the development. The level of development in a location with limited services and facilities and reliance on the use of a private motor is a disbenefit of the scheme in environmental terms.

7.26 When all of the above matters are weighed in the balance and having due regard to all the elements of the NPPF and emerging local plan policies, it is considered that the environmental, social and economic benefits of the development outweigh the dis-benefits and that planning permission be granted on this basis.

8. OFFICER RECOMMENDATION:

8.1. That, subject to the completion of an agreement under the provisions contained at section 106 of the Town and Country Planning Act 1990 to secure:

- a financial contribution of £75,586.50 towards the provision of affordable housing off site;

authority be delegated to the Development Manager to grant planning permission subject to the following conditions:

1. ST02a: Time Limit On Full.

2. This permission relates to the original application documentation except as amended by the revised plans received by the Local Planning Authority on the 7th October 2016 titled Site Plan and Proposed Plot 5 and 9.

3. Samples of all materials to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be constructed in accordance with the approved details.

4. All window and door frames (including garage doors) shall be recessed in their openings a minimum of 50mm behind the front face of the external walls of the buildings unless otherwise agreed in writing by the Local Planning Authority.

5. All gutters, downpipes and other external plumbing shall be finished black unless otherwise agreed in writing by the Local Planning Authority.

6. Before the development commences, details of the type and positioning of any meter boxes and/soil waste pipes shall be submitted to and approved in writing by the Local planning Authority and shall thereafter be provided in accordance with the approved details.
7. No development shall commence until detailed plans showing the design, location, and materials to be used on all boundary walls/fences/screen walls and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details. The boundary treatments so approved shall then be completed prior to the occupation of each dwellinghouse and completed around all public areas as may be required on the completion of the development and shall thereafter be retained in perpetuity unless the Local Planning Authority gives written consent to any variation.

8. 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) 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) an equipped play area;
   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) car park layouts;
   g) other vehicle and pedestrian access and circulation areas;
   h) hard surfacing materials;
   i) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
   j) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc).

9. 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 building(s) 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 including the equipped play area 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.

10. No development shall take place until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), to include the pond and areas of open space / play equipment, shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority. The scheme shall include the following elements:

   i) details of the extent and type of new planting (NB planting to be of native species);
   ii) details of maintenance regimes
   iii) details of any new habitat created on site;
   iv) details of the treatment of site boundaries and/or buffers around water bodies; and
   v) details of management responsibilities.
11. No machinery shall be operated on the site, no process or operations shall be carried out and no deliveries shall be taken at or despatched from the site except between 8:00 and 18:00 hours Monday to Friday and 9:00 and 13:00 on Saturdays or at any time on Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

12. Before any other operations are commenced, 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.

13. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

14. Prior to occupation, the sites existing vehicular access to Rodsley Lane shall be modified by using white lines in accordance with revised application drawing F16172/01, and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 33 metres in each direction measured to 1m out from the nearside carriageway edge. The land 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.

15. No dwelling shall be occupied until space has been laid out within the site in accordance with the submitted Site Plan for 2 cars to be parked for each plot 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.

16. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

17. The access drive to Rodsley Lane shall be no steeper than 1:14 for the first 5m from the nearside highway boundary and 1:10 thereafter.

18. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

19. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

20. No removal of vegetation shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.
21. The development shall be carried out in accordance with the detailed mitigation and monitoring strategy in relation to Great Crested Newts set out in the email and attachments from Middlemarch Environmental received on the 28th November 2016 unless otherwise agreed in writing by the Local Planning Authority.

22. A Landscape and Ecological Management Plan (LEMP) for all retained and created habitats on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The Plan should include details of how the management of the habitats will be implemented and funded.

Reasons:

1. ST02a.

2. For the avoidance of doubt.

3. To ensure the use of appropriate materials and a satisfactory external appearance of the development in accordance with the aims of Policies SF5 and H9 of the adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

4-7. To ensure a satisfactory external appearance of the development in accordance with the aims of Policies SF5 and H9 of the adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

8-10. To ensure the delivery and proper management of a satisfactory standard of landscaping in accordance with the aims of Policies SF5, H9, NBE6, NBE8, NBE26 and L6 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

11. In the interests of preserving the amenities of the occupants of nearby residential properties in accordance with the aims of Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

12-19. In the interests of highway safety in accordance with the aims of Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

20 - 23. To safeguard wildlife and protected species and secure the habitat enhancements offered up by the applicant in accordance with the aims of Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

Footnotes:

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which resulted in revised proposals that overcame initial problems with the application relating to the layout and appearance of the dwellings.

2. A number of the above conditions of the Approval are condition precedent. This means that a valid commencement of the approved development cannot be made within the lifetime of the permission until the particular requirements of the conditions precedent have been met. Failure to discharge conditions precedent may leave the development
liable to the Council initiating formal enforcement proceedings.

3. 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 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 or £28 where the related permission was for extending or altering a dwelling house or other development in the curtilage of a dwelling house. 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.

4. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting this Authority via email – es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

5. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

6. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

7. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant’s responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

8. The application site is affected by a public Right of Way, Footpath No 12 on the Derbyshire Definitive Map. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer. Please note that:-

- The granting of planning permission is not consent to divert or obstruct a public right of way.

- If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
• If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

• Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

• To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

9. The following clause shall be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought:

“The lessee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the driveway intended to serve the development as a highway maintainable at the public expense, it being the intention that same shall at all times remain private up to the point where the same abuts upon the public highway”.

10. This planning permission shall be read in conjunction with the accompanying legal agreement under Section 106 of the Town and Country Planning Act 1990 dated …………

This Decision Notice relates to the following documents:
1:1250 Scale Site Location Plans;
1:200 Scale Site Sections Drawing;
1:100 Scale Garage Elevations and Layout Drawings to Plots 3, 4 and 7;
Great Crested Newt Survey by Middlemarch Environmental dated May 2016, and;
1:100 Scale Proposed Elevations and Layout Drawings of the Dwellings to Plots 1, 2, 3 and 4, 6 and 7 received by the District Council on the 11th and 23rd August 2016;
1:200 Scale Proposed Site Layout drawing and 1:100 Scale Proposed Elevations and Layout drawings of the Dwellings to Plots 5 and 9 received by the District Council on the 7th October 2016;
Highway Impact Statement by Bancroft Consulting received by the District Council on the 2nd November 2016, and;
Detailed mitigation and monitoring strategy in relation to Great Crested Newts by Middlemarch Environmental set out in the email and attachments received by the District Council on the 28th November 2016.
<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
<th>16/00807/FUL</th>
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<tbody>
<tr>
<td>SITE ADDRESS:</td>
<td>Swallow Tail Farm, Wyaston Road, Yeaveley</td>
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<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>Demolition of conservatory and outbuilding and erection of two-storey rear extension and front porch.</td>
</tr>
<tr>
<td>CASE OFFICER</td>
<td>Mr. Ecclestone.</td>
</tr>
<tr>
<td>APPLICANT</td>
<td>Mr. Cadman</td>
</tr>
<tr>
<td>PARISH/TOWN</td>
<td>Yeaveley</td>
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<tr>
<td>AGENT</td>
<td>Julia Allen</td>
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<tr>
<td>WARD MEMBER(S)</td>
<td>Cllr. Morley</td>
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<tr>
<td>DETERMINATION TARGET</td>
<td>27th December 2016</td>
</tr>
<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>Requested by Ward Member.</td>
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<tr>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>To assess the impact of the proposed extension on the amenity of occupants of the neighbouring dwelling.</td>
</tr>
</tbody>
</table>

**MATERIAL PLANNING ISSUES**

1. Impact on the amenity of occupants of the neighbouring dwelling.
2. Impact of the extension on the character and appearance of existing dwelling.

**RECOMMENDATION**

Refusal.
1 THE SITE AND SURROUNDINGS
1.1 The application property is an old farmhouse, situated in a rural location at a fork in the road to the north of Yeaveley. It is no longer a working farm and the barns have been sold off and converted.

2 DETAILS OF THE APPLICATION
The proposal is for a large, two-storey rear extension. The design has been amended to seek to address concerns raised about its design and appearance. The amended plan will extend out to the rear by 9.7m and will be 5.5m wide. It will be 6.3m high with a pitched roof. The existing single-storey rear extensions and outbuildings will be removed.

A new open-sided front porch with a pitched-roof is also proposed on the south elevation.

3 PLANNING POLICY AND LEGISLATIVE FRAMEWORK
Adopted Derbyshire Dales Local Plan (2005)
SF5 Design And Appearance Of Development
H2 Extensions to Dwellings
National Planning Policy Framework (NPPF)
Part 7  Requiring Good Design

4 RELEVANT PLANNING HISTORY
16/00396/FUL  Erection of detached garage and store building with office space above.  Granted
0892/0657  Erection of agricultural building and Dutch barn.  Granted
0889/0736  Conversion of farm buildings to two dwellings.  Granted

5 CONSULTATION RESPONSES
Parish Council
No objection.

6 REPRESENTATIONS RECEIVED
None.

7 OFFICER APPRAISAL
7.1 The following material planning issues are relevant to this application:
Impact on neighbour.
Impact on character and appearance of existing dwelling.

7.2 Impact on neighbour
The two-storey rear extension has been amended in response to concerns raised about its design and appearance. Unfortunately however, the extent of the modifications do not address to a significant degree the overbearing impact that it will have on the neighbouring barn conversion to the east, being just 8m away. The size and close proximity of the proposed two-storey rear extension are considered to have an overbearing impact which will have a significant adverse impact on the amenity of residents of the neighbouring barn conversion. It will also cause overshadowing and loss of light where such issues do not currently exist from the single-storey outbuildings.

7.3 Impact on character and appearance of existing dwelling
The two-storey rear extension is considered to appear overly large and disproportionate. It will detract from the character and appearance of this former farmhouse by reason of its scale and design. It will also have a detrimental impact on the former farmyard context by changing the relationship between the farmhouse with its farmyard and former farm buildings.

The proposal will conflict with Local Plan Policy SF5 – Design And Appearance Of Development, because the scale, massing, height and layout do not preserve or enhance the quality or local distinctiveness of the surroundings. The scheme does not reinforce a sense of place and it is not well related to surrounding properties or land uses.
The proposal will conflict with Local Plan Policy H2 – Extensions To Dwellings, because it would result in a detrimental impact on the character and appearance of the dwelling and its surroundings and it will also result in a significant loss of amenity for residents of neighbouring properties.

The proposal will also conflict with Part 7 of the NPPF where the Government attaches great importance to the design of the built environment. The proposal does not contribute positively to making the place better for people. It also fails to improve the character and quality of the area.

Paragraph 64 also states that planning permission should be refused for poor designs that fail to take the opportunities available for improving the character and quality of an area and the way it functions.

The new front porch however is not considered to have as adverse impact on the former farmhouse or on the surrounding area.

7.4 Conclusion
Given the close proximity of the neighbouring barn conversion to the east, being just 8m away, the proposed two-storey rear extension will have an overbearing impact on the amenity of the neighbouring residents.

Its scale and design are also considered to have a detrimental impact upon the existing farmhouse and its visual relationship to the former farm group.

8 RECOMMENDATION
Planning Permission be refused for the following reasons:

The two-storey rear extension will appear as a disproportionately large addition which will detract from the character and appearance of this former farmhouse. Moreover, its scale and positioning, in close proximity to the neighbouring dwelling, will have a significant overbearing impact on this dwelling to the detriment of the residential amenity of its occupants. It will conflict with Policies SF5 and H2 of the Adopted Derbyshire Dales Local Plan (2005).

9 NOTE TO APPLICANT
This Decision Notice relates to the following documents:

The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis, the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a Decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.
**APPLICATION NUMBER** 16/00581/FUL

**SITE ADDRESS:** Manor Farm, Longcliffe, Brassington

**DESCRIPTION OF DEVELOPMENT** Installation of Asphalt Plant, Change of Use of Land to B1, B2 and B8 Use, Extension to Industrial Building and Engineering Works

**CASE OFFICER** Mr Chris Whitmore  
**APPLICANT** Messrs. S & P Horobin

**PARISH/TOWN** Longcliffe  
**AGENT** Mr T. Marsden

**WARD MEMBER(S)** Cllr. Rose  
**DETERMINATION TARGET** 21st November 2016

**REASON FOR DETERMINATION BY COMMITTEE** Major application  
**REASON FOR SITE VISIT (IF APPLICABLE)** No site visit required. Members visited the site on the 15th November 2016.

**MATERIAL PLANNING ISSUES**

- Whether the development would be appropriate in nature and scale in the context of its surroundings, and;
- the impact of the proposed development on the immediate and wider landscape;
- highway safety, and;
- the local environment, including nearby heritage assets and ecology.

**RECOMMENDATION** Refusal
16/00581/FUL

Manor Farm, Longcliffe, Brassington

Derbyshire Dales DC

Date: 06/01/2017

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Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 761100.
website: www.derbyshiredales.gov.uk
1 INTRODUCTION

1.1 At the 15th November 2016 planning committee meeting it was resolved that the application be deferred to give the applicant opportunity to address officer concerns with regard to lack of information in relation to protected species and traffic movements to and from the site, to be able to assess the extent to which the development would impact on the local highway network. The applicants have since provided the Local Planning Authority with additional information which is reflected on in the main body of this report. Confirmation was also sought as to whether the applicant wished to withdraw the asphalt plant, which was offered up at the meeting in November 2016. The applicants have confirmed that they wish to continue with this element of the application.

2 THE SITE AND SURROUNDINGS

2.1 Manor Farm is situated to the east of Longcliffe crossroads on the northern side of the B5056, in an area where a number of businesses are located. A splayed access leads northwards from the highway for a short distance before turning west towards an area of hardstanding where a series of lorry bodies and vehicles are stored (see photograph 1) and east, passing the front of the farmhouse and leading into a yard area. An array of buildings are spread over sloping ground in this area, with access from a track that rises through the site to a recently levelled area (see photographs 2 and 3). The range of activities within the site includes a ready mix concrete company, stone and concrete cutting, vehicle maintenance, a transfer station, plant and equipment parking and other commercial buildings / containers.

2.2 The site is located in an area of open countryside away from existing settlements. Specifically the proposal relates to an open sided storage building and a yard area at the rear of the site, which has been levelled / cut into the landscape and a planted bund formed and disturbed agricultural land to the west of the main farmhouse and industrial buildings, which sits beyond an existing tree belt (see photograph 4).

2.3 The districts boundary with the Peak District National Park lies to the north, following a minor road to Aldwark.
3 THE APPLICATION

3.1 Full planning permission is sought to level the undulating land to the west of the main farmhouse and industrial buildings to create a yard area some 170m long by 85m wide (approximately). It is proposed to site what is described as a mobile asphalt plant in the central part of the yard area. Along the western boundary a lagoon will be formed to deal with surface water. The applicant advises that the lagoon, an office building and weighbridge (all to be formed / erected as part of this application) have been previously approved and a lawful start on this development made. The mobile asphalt plant will cover an area approximately 55m deep by 40m wide. The highest part of the plant is approximately 14m above ground level.

3.2 Planning permission is also sought to extend an existing industrial storage building located to the east of the main farmhouse. It is proposed to construct a lean to link between the building and a Dutch barn to the south (which will follow the existing roof plane) and to extend the building out in an easterly direction by 32m. The extension will be of the same width (13.7m). The dual pitched roof will continue over the extension and will be 6.7 high to ridge. The roof and walls, above concrete panels will be clad in box profile steel sheeting finished a Goosewing Grey colour to match the existing building. Although no supporting information accompanies the application relating to this extension, it is understood that it will be used in association with the existing industrial activity which takes place on the site.

3.3 Retrospective permission is also sought to regularise the levelling works which have taken place to the north of the existing industrial buildings. Planning permission was granted to form a yard area where the deepest area of excavation reduced the original land level of 326.5m AOD down to 320.8m AOD (5.7m). The yard area has, however been excavated down to 319m AOD. This application seeks consent to retain the yard area at this level. Within the existing yard area it is also proposed to install a below ground water harvesting system. The application also includes an area of land to the north, which was shown as a bund in application 13/00045/FUL, however, was not included within the red edged site location plan. The applicant intends to form the bund and carry out the planting that was previously approved. As part of this application it is proposed to continue a further shallow bund to the north and tree and shrub planting westwards and then south towards the B5056 to contain the new yard area and help screen the mobile asphalt plant.

3.4 It was stated in respect of application 13/00045/FUL, that the yard area to the north was to be primarily for the storage of goods, plant and vehicles in association with the existing uses and businesses.

3.5 Following deferral of the item at the November planning committee meeting a Preliminary Ecological Appraisal by Peak Ecology and a Transport Assessment by Sanderson Ltd
have been prepared and submitted to the Local Planning Authority for consideration. The reports have been considered by Derbyshire Wildlife Trust and the Local Highway Authority and are reflected on in the issues section of this report, in terms of whether they address refusal reasons 2 and 3 of the previous recommendation to committee.

4  PLANNING POLICY AND LEGISLATIVE FRAMEWORK

4.1 Adopted Derbyshire Dales District Council Local Plan (2005):

SF3: Development Conspicuous From The Peak National Park
SF4: Development In The Countryside
SF5: Design And Appearance of Development
EDT7: Extension And Expansion Of Existing Industrial And Business Land And Premises
EDT15: New Build Industrial And Business Development Outside Of Settlement Frameworks
NBE5: Development Affecting Species Protected by Law Or Are Nationally Rare
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
L9: Safeguarding Public Rights of Way
L10: Leisure Routes And Trails

Other:
Derbyshire Dales Deposit Draft Local Plan (August 2016)
Derbyshire Dales District Council Supplementary Planning Document ‘Landscape Character and Design’ (Adopted July 2007)

5  RELEVANT PLANNING HISTORY

16/00183/FUL  Installation of asphalt plant – Withdrawn
13/00045/FUL  Change of use of land and engineering operations to form extension to operational area for Use Classes B1, B2 and B8 use – Granted
11/00190/FUL  Change of use of site from mixed use to Use Classes B1, B2 and B8 – Granted
10/00409/CM  Materials recycling facility (County Application CW3/0510/31) – Granted
10/00285/CM  In-vessel composting facility (County Application CW3/0410/2) – Withdrawn
07/00190/FUL  Erection of ready mix concrete plant equipment and office building – Granted
05/00601/CM  Erection of Composting Plant (Revised Application) (County Application CW3/0705/45 – Allowed at Appeal.
04/11/1033  Proposed reception area, weighbridge, in-vessel clamps and maturation area for composting facility (County Application CW3/1104/155) – Withdrawn
CONSULTATIONS

6.1 Parish Council:
The Parish Council would like to approve this application, however, the Council had real concerns about the issue of noise during the long work hours and no figures were available to show the level of noise that would be expected if the application were to go ahead.

6.2 Local Highway Authority:
Initial response:

The application provides no details of the operations to be carried out within the site. It is recognised that the application indicated the GFA for the B2 use is 273sq. m, however, considering that the type of use classifications for which the approval is being sought and the overall site area, particularly the western site which is to house an asphalt plant, it is considered that a Transport Assessment is required to be submitted by the applicant in order to establish the operational details of the site and the potential impact on the highway network. It should be noted that the red and blue outline plans do not include the site access and no part of the application indicates that the new access to be created to serve the application site(s). The TA should include an assessment of the suitability of the access to serve the use classifications applied for.

The applicant is also required to provide a plan of the proposed site layout, either to be included in the TA or separately, including parking spaces and turning facilities for all vehicles expected to visit the site e.g. staff vehicles and HGVs.

A transport assessment was subsequently submitted to the Local Planning Authority and the Local Highway Authority commented as follows:

Based purely on the whole application site being used as an asphalt plant and with the asphalt plant being operated in line with the details included in the TA, the development would be acceptable to the Highway Authority.

However, as the application includes a number of other use classifications (B1, B2 and B8) there is a concern that future occupiers of the site, or even the current applicant, could undertake various other operations within the site, on top of the asphalt plant, which could generate significantly more vehicular traffic resulting in potential harmful impact on the highway network which have not been assessed and as such are unknown. Whilst the submission of a TA was requested in order to assess the potential of the proposed development, the TA itself only refers to the asphalt plant. If a consent could be granted which restricts the use of the site to the asphalt plant only and as being operated in line
with the details submitted in the TA, the Highway Authority would have no objections to the application subject to conditions; however, if this is not possible under planning legislation, a more detailed TA would be required which encompasses all of the use classifications applied for to fully understand the potential impact of the whole development on the highway network. To put it simply, for instance, a consent granted to the application as it stands would allow either the current or future occupier of the site to potentially operate a storage and distribution facility under a B8 use classification without any assessment of that operation having been carried out.

The applicant has since confirmed that the wider use of the new yard area would be in association with the existing activity carried out at Manor Farm and would not result in any additional traffic movements.

6.3 Derbyshire Dales Group of the Ramblers:
The Derbyshire Dales Group of the Ramblers have no objection to the application providing that Brassington footpath 9 which runs from the B5056 along the side of the plot outlined for development is not affected in any way during and after development.

6.4 Peak and Northern Footpaths Society:
No objection, provided that the full width of Footpath 9 Brassington remains unobstructed at all times. The proposed woodland along the northern and western sides of the site must be planted and well-maintained. If the footpath enters and leaves the site via stiles, these should be replaced with pedestrian gates, or left as gaps if the fields are not grazed.

6.5 Derby and Derbyshire Development Control Archaeologist:
Initial comments:

The submitted documents are lacking in information necessary to form an informed opinion on environmental impacts. There is no clear proposed site layout plan, no detail on the location or extent of existing planning consents for parts of the site, and no detail on where works have already taken place. From the information provided it seems that the proposed asphalt plant in particular will be substantial in character and will require significant reductions in ground level on the western part of the site.

The site is within an area with considerable potential for prehistoric archaeology: there are numerous find spots of prehistoric artefacts on the HER within a few hundred metres. To understand whether the site retains any potential for below-ground archaeological remains it is however necessary to understand where on the site the original ground profile remains undisturbed. Without this information it is not possible to estimate archaeological potential as required at NPPF para 128.

The site is also likely to be visible from designated heritage assets in the area, including the Scheduled Monuments at Moot Low and Harborough Cave. In the absence of any heritage submission the application does not meet the requirements of NPPF para 128 with regard to these assets.

The application should not be granted consent in its current form, because of a lack of heritage information (NPPF paras 128/129). To address this omission the applicant should submit a ‘heritage impact assessment’ or similar, produced by a suitably accredited heritage professional (CIfA) and including appropriate viewpoint studies and photomontage where appropriate to show impacts in relation to designated heritage assets, as well as further detail on ground disturbance within the site itself.

In response to the above comments the applicant advised that the location where the asphalt plant was to be located had been worked lower than the intended finished floor level and only be levelled and hardcored. Photographs in the direction of the site from the
Scheduled Monuments were also taken, which showed that the development would not be visible.

Second Response:

It seems from the information submitted that there will be no additional below-ground impacts on the site so I think we can conclude that there will be no impacts to below-ground archaeology.

The pictures of industrial ‘stuff’ in the vicinity of heritage assets is neither here nor there as it isn’t directly relevant to the current application. The assets still have a setting and we assess impacts cumulatively with the existing.

The photo ‘Manor Farm from monument’ is interesting as it shows a view to Minninglow Hill directly behind part of the Manor Farm site, suggesting that this could be an important heritage view. However it isn’t clear where this photo was taken from. They need to tell us the location of this photo, and provide some evidence for the other monument.

Once they’ve done this, if there are only views of the rear bank, as suggested here, then the impacts could be addressed with reference to the proposed landscaping scheme to ensure that the bare bank is appropriately vegetated to appear recessive in the view.

6.6 The District Councils Landscape Officer:

There are some very serious concerns with the proposed development.

The site is very prominent and is highly visible from public viewpoints in the surroundings (including sensitive areas on the edge of the National Park and from the High Peak Trail). If trees and shrubs planted as screening belts develop, as others have done alongside the B5056 further to the east, it is likely that the visual impact of the development will be mitigated to an extent. However, it will take a considerable time (5-10 years) for there to be any perceivable effect of screening and longer still for the effect to be substantial. In the intervening period the development will have a significant adverse impact on local visual amenity.

Notwithstanding the existing impact of industrial development within the valley and disturbance to the site itself, remaining agricultural land between Manor Farm and Crossroads Garage extends into the wider countryside in the north and ensures that some of the former character of the surroundings is retained. The proposed development will have additional adverse impact on local landscape character and the setting of the National Park in this respect.

Measures proposed to mitigate the impact of the development immediately north of the existing complex are generally satisfactory. It is important to ensure that the proposed bund does not, itself become an intrusive element within the landscape. It must be sensitively rounded off at the top and carefully graded back into the slope so that it marries naturally with the existing land form. A different scrub mix is also recommended.

6.7 Principal Environmental Health Officer:

There is not a lot of information but I have no objections in principle as I will be the enforcement person via a permit for the activity in relation to odour and dust etc. but not noise. I don’t envisage it to be noisy as such especially where it is, so no objections.
6.8 Derbyshire County Council (Planning):

Detailed comments in relation to minerals safeguarding are made. The County Council however, raise the following wider concerns:

The information provided by the applicant indicates that the development would be for the proposed installation of an asphalt plant, the change of use of the land to B1, B2 and B8 uses, an extension to an existing industrial building and associated engineering works at Manor Farm, Longcliffe. Whilst it is acknowledged that the application does provide for such development, there are a number of areas where the application either does not provide sufficient information or where additional development would appear to be proposed, including infill of hollows, limestone to be removed from the floor of the yard extension, details of the shallow landscaping bund, landscaping in the eastern section of the site, the importation of any waste material and the construction of the roll over slope and more sections and details of the quantity material available.

Referring to the applicants contention that a lawful start on County Matter application CW3/0705/45 has been made, the County Council advise that the development was never lawfully commenced and that as a consequence the planning permission expired.

Contained with the County Councils response are also the following comments from the County Councils Landscape Officer:

‘This planning application looks to be the resubmission of an earlier application for an asphalt plant. Although the overall submission remains poor with respect to the information provided it does now include information on the proposed landscaping of the site.

From what I can ascertain from the quality of the drawings provided the proposal is to install the asphalt plant on land to the west of the existing farm complex in an area that has previously received planning permission (on Appeal) for a waste composting facility. This presumably requires a use-class change. An existing industrial shed to the rear (north) of the farm will be extended and beyond that to the north there is some ongoing work to create a further level platform for future development, which has already required extensive engineering works to establish a level development platform.

The extension of the existing industrial shed is probably acceptable given that it is well screened from the main vantage points such as the B5056 and the High Peak Trail by other buildings forming part of the farm complex. However, I continue to have strong reservations about the installation of an asphalt plant that will have a distinctly industrial appearance in this relatively rural location, which seems to be at odds with a range of local plan policies. The landscape scheme is completely inappropriate to the established landscape character of the area as described in the ‘Landscape Character of Derbyshire’ publication (DCC 2014) (www.derbyshire.gov.uk/landscape) and supported in Derbyshire Dales District Council’s Supplementary Planning Guidance: Landscape Character and Design (July 2007). The proposal to establish a number of artificial mounds with linear belts of fringing woodland would both constitute incongruous features in this open landscape with long distance views and in this regard would do little to mitigate the adverse effects associated with the proposal. If the applicant remains committed to the scheme, I would strongly urge that they seek the service of an appropriately qualified Landscape Architect who is better able to understand and interpret the character of the surrounding landscape to deliver a more appropriate landscape scheme that might mitigate against some of the adverse effects associated with the proposal, although I remain unconvinced that this is the best location for an asphalt plant.

A brief planning statement acknowledges that there will be visual impacts from the High Peak Trail although the fact that other industrial buildings will be visible in the view is not,
in my opinion, a mitigating factor – I would prefer to consider this proposal as a cumulative effect in this otherwise rural location’.

6.9 Derbyshire Wildlife Trust:

In response to the applicants further submission now confirm no objections, subject to conditions.

7 REPRESENTATIONS

7.1 None.

8 ISSUES

8.1 Having regard to the policies of the development plan, which can be afforded weight, guidance contained within the National Planning Policy Framework (NPPF) and the consultation responses received the main issues to assess are:

- Whether the development would be appropriate in nature and scale in the context of its surroundings, and;
- the impact of the proposed development on the immediate and wider landscape;
- highway safety, and;
- the local environment, including nearby heritage assets and ecology.

Whether the development would be appropriate in nature and scale in the context of its surroundings

8.2 There are elements of the development proposal that would constitute extension and expansion of the activities that take place at Manor Farm, such as the extension to the existing storage building, the works to create a level yard area to 319m AOD and the installation of a water harvesting system to the north east of the farmhouse. The applicant has also advised that the new yard area will be used to store raw materials and finished product from the operations already carried out on the site. They advise that currently block stone and finished products are stored off site and delivered as required. The part of the yard upon which the asphalt plant will be sited is currently used to park lorries and mobile plant, which will be relocated onto the other yard area to the north east of the main farmhouse. As the asphalt business will require haulage the new yard area will also provide space for a fleet of haulage vehicles. The element of the proposal which cannot, it is considered be construed as being connected to the existing activities on the site which includes a ready mix concrete company, stone and concrete cutting, vehicle maintenance, a transfer station, plant and HGV parking is the asphalt plant. Although it is understood that some quarrying activity / transfer of material has recently taken place to facilitate the levelling works which have taken place to form the yard area to the north east of the main farmhouse approved as part of application 13/00045/FUL the applicant has advised that such material will not be used in the production of asphalt. As can be seen from the County Councils Development Management Team they have advised that the small size of the site, together with the type of mineral involved is such that it would be impractical and unviable to extract the material as part of the development. The applicant has also advised that they have a client interested in operating the asphalt plant. Other than the opportunity for the applicant to expand their fleet of haulage vehicles it would be unrelated to the existing businesses which operate from the site.

8.3 The extension to the existing building and proposal to regularise the level of the yard area to the north and the proposal to carry out the associated landscaping approved as part of application 13/00045/FUL and install a water harvesting system is considered to be acceptable in principle, on the basis that such works would be connected with existing
businesses / approved uses on the site. There is, however, a requirement to consider the impact of such works on the local environment as required by Adopted Derbyshire Dales Local Plan Policy EDT7.

8.4 Of greater concern if the acceptability of the use and works associated with the levelling of a large area of land to the west of the existing farm to accommodate an asphalt plant. The applicant refers to the plant being mobile, however, its sheer scale and weight and degree of permanence (i.e. it is proposed to be sited in one area) is such that it is considered to constitute development requiring planning permission. The site, although, next to existing industry sits within open countryside. Policy SF4 deals with development in the countryside and advises that it will only be permitted if it is required to serve the essential requirements of agriculture, forestry and outdoor sport or recreation, assists the growth of tourism, forms part of a farm-based diversification scheme represents the acceptable re-use adaptation or extension of an existing rural building or provides for other needs which can only be met in a rural area. The policy also requires proposals to be appropriate in nature and scale to a rural area, preserve or enhance the character and appearance of the countryside and minimise any adverse impact on the local environment.

8.5 Given that the asphalt plant is unrelated to the activity on the site and is a freestanding operation it falls to be considered against Policy EDT15 of the Adopted Local Plan. Policy EDT15 deals with new build industrial and business development outside of settlement frameworks and aligns with guidance contained at Part 3 of the National Planning Policy Framework ‘Supporting a Prosperous Rural Economy’. It states that outside the defined settlement frameworks planning permission will only be granted for new build industrial and business development where it consists of small-scale industrial and business development that is appropriate to its location, the size, design, and appearance of any building or group of buildings is commensurate with its function and the needs of the industry or business and, it does not have an adverse impact upon the character and appearance of the immediate or wider landscape. Similar provisions are contained within Policy EC1 of the Deposit Draft Derbyshire Dales Local Plan (August 2016). Without any overriding requirement for the asphalt plant to be sited in the location proposed it is not considered to constitute appropriate development in the countryside.

8.6 The applicant in support of the asphalt plant makes reference to a start being made on a county matter development, which was allowed at appeal to construct an in vessel composting facility on the land to the west. Although it would appear that a new access was formed and an area levelled the County Council have advised that a lawful start on this development has not, as far as they are concerned, been made. The nature of this previously allowed development is, in any event different, to that which is now being proposed.

The impact of the proposed development on the immediate and wider landscape

8.7 An important consideration is the impact of the development on the character of the local landscape. The extension to the existing industrial building and reduced yard level to the north would it is considered have a minimal impact on the immediate and wider landscape. The view from the High Peak Trail will remain open with the excavated northern face being prominent. When viewed in the context of the existing industrial buildings and activity it is not considered, however, that the slight reduction in the new ground level has a significantly worse impact on the character or the local landscape or adversely affect the enjoyment of the leisure trail.

8.8 Of significant concern is the impact of the engineering works to create a level surface to the west of the main farmhouse and the installation of an asphalt plant of the scale and nature proposed. Policy NBE8 deals with landscape character and acknowledges, in its preamble that there has been a move away from the use of designated areas of landscape
towards an emphasis on maintaining and enhancing the distinctive character of the whole of the countryside. Taken literally, the requirements of the policy are that development should have as a minimum a neutral impact on the character, appearance and local distinctiveness of the landscape.

8.9 The local landscape character is that of ‘Plateau Pastures’ of the White Peak and is typified by the following elements:

- A gently rolling upland landscape
- Stock rearing on improved pasture
- Limestone outcrops on hill summits and steeper slopes
- Small shelter blocks of plantation woodland and tree groups around villages and farmsteads
- Medium to large regular fields enclosed by dry stone walls
- Straight roads with uniform verges
- Open landscape with expansive views

8.10 The landscape surrounding the development site has been considerably modified through long association with industry (railways, Longcliffe brick works, limestone quarrying, stone working, road haulage etc.) that has become established either side of the road from Longcliffe crossroads to the junction with the Via Gellia at Grangemill. Quarrying in particular has had a significant impact on the local landscape and this is set to continue.

8.11 Isolated farmsteads have become caught up in this activity and are now as much involved in road haulage, recycling and stone sawing activity as in farming, all of which has had an adverse impact on landscape character to a greater or lesser degree. One such site is Manor Farm.

8.12 In an attempt to mitigate the impact of the industrial activity in the area belts of trees and shrubs, some of them quite extensive have been planted to screen developments in views from the road and the surrounding countryside. This has been done with varying success.

8.13 The main site is on sloping ground in a prominent and open position alongside the road and clear views to it can be had from the B5056, the road to Aldwark, the footpath along the western boundary, the High Peak Trail and from the high viewpoint in the south at Harborough Rocks. The only direction from which views are screened is from the east on the approach to Manor Farm along the B5056. The remaining agricultural land between Manor Farm and Crossroads Garage extends into the wider countryside in the north and ensures that some of the former character of the surroundings is retained. The proposal to introduce artificial mounds with linear belts of fringing woodland would both constitute incongruous features in this open landscape would do little to mitigate the adverse effects associated with the formation of a 170m by 85m yard area, associated storage and 14m high asphalt plant on the local landscape and is also likely to result in some harm to the setting of the Peak District National Park.

Highway safety

8.14 Following deferral of the application the applicant has submitted a transport assessment which details vehicle movements associated with the operation of an asphalt plant. It advises that the plant would begin operation early morning at approximately 6am before the typical morning peak and at full capacity the plant would be capable of producing 100 tonnes of material per hour which would require 4 HGVs delivering and 5 HGVs distributing material per hour. It is anticipated that 4 employees will be required to run the plant. The applicant has confirmed that the wider yard area would be used by existing businesses at Manor Farm and would not result in any additional traffic movements. Based on this additional information the Local Highway Authority are satisfied, subject to
conditions that the development would be acceptable in highway safety terms. The third reason for refusal set out in the previous report to committee has now therefore been addressed.

The local environment, including nearby heritage assets and ecology

8.15 In terms of impact of heritage assets, the Development Control Archaeologist is satisfied that there will be no impacts to below-ground archaeology as a result of the development. Photographs taken from the identified Scheduled Ancient Monuments show that the development would be unlikely to compromise the significance of these designated heritage assets, subject to appropriate landscaping.

8.16 Having considered the preliminary ecological appraisal by Peak Ecology Derbyshire Wildlife Trust initially advised that it did not include the area where the proposed works will be located (i.e. the new yard area and asphalt plant). As Badgers and Great Crested Newts would be located within closer proximity to the working area, 40m and 190m respectively it was not considered that the application was accompanied by sufficient information in order to demonstrate the presence or otherwise of protected species and the extent that they may be affected by the proposed development. The applicants ecologist advised that a brief walkover of the area was undertaken and sufficient information was gathered to be able to identify habitats and potential for protected species and an amended Phase 1 Habitat Plan showing the additional area was submitted. Having considered this and an addendum to the original preliminary ecological appraisal, Derbyshire Wildlife Trust are satisfied that protected species could be appropriately safeguarded subject to securing an appropriate lighting strategy and Great Crested Newt watching brief through condition. A condition to protect nesting birds is also recommended. The second reason for refusal set out in the previous report to committee no longer, therefore applies.

Conclusion

8.17 Notwithstanding that matters relating to ecology and highway safety have now been addressed, officers maintain that the formation of a new yard area and the erection of an asphalt plant on the land to the west of Manor Farm would be inappropriate in nature and scale to the rural location of the site and would result in significant harm to the character and appearance of this part of the countryside, the local landscape and is likely to result in some harm to the setting of the National Park. These significant environmental disbenefits would, it is considered, outweigh the economic benefits associated with the development and jobs that would be generated and it is recommended that the application be refused on this basis.

9 OFFICER RECOMMENDATION:

To refuse planning permission for the following reason:

1. The formation of a new yard area for B1, B2 and B8 use and the installation of an asphalt plant on land to the west of Manor Farm would be inappropriate in nature and scale to the rural location of the site and would result in significant harm to the character and appearance of this part of the countryside and the local landscape close to the National Park boundary, contrary to Policies SF3, SF4, NBE8 and EDT15 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012) and the National Planning Practice Guide.
Footnotes:

1. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

This Decision Notice relates to the following documents:
1:2500 Scale Site Location Plan;
1:500 Scale Block Plan showing details of the Bund to the north of the existing yard area numbered 23985_T_Rev0;
1:100 and 1:25 Scale Proposed Building Extension Elevations and Roof Layout Drawing numbered S932;
Supporting Statement Referenced MF14/2016;
1:500 Scale Section Drawing numbered MF8/2016;
1:100 and 1:250 Scale Layout and Sections through the yard to accommodate the asphalt plan drawings numbered A2726-001 received by the District Council on the 8th, 15th and 22nd August 2016, and;
The emails from the Applicants Agent received by the District Council on the 4th, 13th October and 26th October 2016.

Letter circulated to Planning Committee Members at the Meeting on the 15th November 2016;
Transport Assessment by Sanderson Associates dated November 2016 and Preliminary Ecological Appraisal by Peak Ecology Ltd Dated 30th November 2016 received by the District Council on the 2nd December 2016;
Email from the Applicants Agent Dated 4th January 2017, and;
Addendum / additional information to accompany the Preliminary Ecological Appraisal by Peak Ecology dated 5th January 2017.
# Active Enforcement Investigations

**Ashbourne North**

<table>
<thead>
<tr>
<th>ENF/13/00095</th>
<th>Unauthorised alterations to listed buildings - 15 - 17 Church St, Ashbourne, Derbyshire DE6 1AE</th>
<th>Bagshaw Agricultural Vine House 15 Church Street Ashbourne Derbyshire DE6 1AE</th>
<th>Pending Consideration</th>
</tr>
</thead>
<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>
</tr>
<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>
</tr>
<tr>
<td>ENF/15/00035</td>
<td>Unauthorised signage and paintwork</td>
<td>Drink Zone Plus Ground Floor 5B St John Street Ashbourne Derbyshire DE6 1GP</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00072</td>
<td>Unauthorised change of use of ancillary residential accommodation to self contained holiday cottage and change of use of agricultural land to domestic curtilage</td>
<td>Parkfield House Farm Kniveton Lane Offcote Derbyshire DE6 1JQ</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00085</td>
<td>Unauthorised alterations to a listed building comprising of the alterations to the shop front, painting, signage and lighting.</td>
<td>Abode Unit 1 1 Market Place Ashbourne Derbyshire DE6 1GP</td>
<td>Pending Consideration</td>
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**Ashbourne South**

<table>
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<tr>
<th>ENF/14/00070</th>
<th>Unauthorised internally illuminated signage above front of restaurant - 25 Dig Street, Ashbourne, DE6 1GF</th>
<th>25 Dig Street Ashbourne Derbyshire DE6 1GF</th>
<th>Pending Consideration</th>
</tr>
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<tbody>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
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**Brailsford**

| ENF/15/00021  | 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. | Orchard Cottage Longford Lane Longford Derbyshire DE6 3DT | Pending Consideration |
ENF/15/00097  Unauthorised construction of timber cabin and subsequent occupation as a dwelling house with associated use of land as domestic curtilage.  Aragorn Cabin Mercaston Lane Mercaston Derbyshire  Pending Consideration

ENF/16/00033  Breach of condition 16 (hours of work) of planning permission 13/00826/FUL - Land off Luke Lane Brailsford  Land Off Luke Lane Luke Lane Brailsford Derbyshire  Pending Consideration

ENF/16/00087  Failure to provide pre commencement details as per conditions 2 and 6 of planning permission 16/00400/PDA - Change of use of agricultural building to dwelling house.  The Old Drifthouse Park Stiles Farm Park Lane Rodsley Derbyshire DE6 3AJ  Pending Consideration

ENF/16/00106  Unauthorised change of use of agricultural land to use for the storage of a shipping container on land known as "Rick Yard Orchard", Church Lane, Brailsford.  Rick Yard Orchard Church Lane Brailsford Derbyshire  Pending Consideration

**Carsington Water**

ENF/15/00108  Non compliance with approved plans "Erection of two dwellings" at Peakland View, Darley Dale, office code 14/00300/FUL  Robinsons Limited Longcliffe Works Longcliffe Brassington Derbyshire DE4 4HN  Pending Consideration

ENF/16/00034  Unauthorised erection of Dog kennels  Four Lane Ends Farm Gibfield Lane Hulland Ward Derbyshire DE6 3EJ  DC Application Submitted

ENF/16/00073  Unauthorised change of use and conversion of outbuildings on land at Rock Cottage, Brassington, Matlock, Derbyshire, DE4 4HA  Rock Cottage Hillside Lane Brassington Derbyshire DE4 4HA  Pending Consideration

ENF/16/00099  Unauthorised erection of external flu pipe on building fronting a highway and within the conservation area of Hopton.  Henmore Grange Main Street Hopton Derbyshire DE4 4DF  Pending Consideration

**Clifton And Bradley**

ENF/15/00106  Unauthorised signs on land at Riverside Retail Park and Ashbourne Golf Club.  Waterside Park Waterside Road Ashbourne Derbyshire  Pending Consideration

ENF/16/00095  Unauthorised building works for the conversion of outbuildings to living accommodation.  Charity Farm Orchard Lane Wyaston Derbyshire DE6 2DR  Pending Consideration

**Darley Dale**

ENF/12/00034  Unauthorised demolition of a Listed wall and unauthorised access off the A6 at Dale Road North Darley Dale.  Stancliffe Quarry, Darley Dale, Matlock.  Notice Issued

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  Pending Consideration
<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/15/00034</td>
<td>Stationing of a caravan on land for suspected residential purposes and the use of an agricultural building for the keeping of horses.</td>
</tr>
<tr>
<td>ENF/16/00055</td>
<td>Unauthorised engineering works to facilitate caravan hardstanding pitches</td>
</tr>
<tr>
<td>ENF/16/00071</td>
<td>Unauthorised engineering operations</td>
</tr>
<tr>
<td>ENF/16/00092</td>
<td>Engineering operations to create a car park.</td>
</tr>
<tr>
<td>ENF/16/00065</td>
<td>Alleged change of use of pub car park to use for the stationing of vehicular mobile homes.</td>
</tr>
<tr>
<td>ENF/15/00092</td>
<td>The unauthorised erection of a timber cabin for the purposes of human habitation. The Cabin, Laburnham Cottage, Mapleton.</td>
</tr>
<tr>
<td>ENF/15/00001</td>
<td>Unauthorised breach of condition 11 of planning permission 08/00520/FUL - Conversion of barn to holiday let.</td>
</tr>
<tr>
<td>ENF/15/00039</td>
<td>Unauthorised change of use of agricultural outbuildings to office/business use.</td>
</tr>
<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>
</tr>
<tr>
<td>ENF/15/00004</td>
<td>Unauthorised engineering works including substantive excavation on land at Common Farm.</td>
</tr>
<tr>
<td>ENF/15/00024</td>
<td>Unauthorised change of use of holiday cabins to dwelling.</td>
</tr>
<tr>
<td>ENF/16/00043</td>
<td>Unauthorised engineering works on land at Whinney Hill Farm</td>
</tr>
<tr>
<td>ENF/11/00083</td>
<td>Unauthorised rebuilding of retaining wall.</td>
</tr>
</tbody>
</table>

**Dovedale And Parwich**

<table>
<thead>
<tr>
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<tr>
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<tr>
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</table>

**Doveridge And Sudbury**

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/13/00019</td>
<td>Unlawful siting of caravan for human habitation in agricultural field adjacent to Marston Lane at Doveridge.</td>
</tr>
<tr>
<td>ENF/15/00001</td>
<td>Unauthorised breach of condition 11 of planning permission 08/00520/FUL - Conversion of barn to holiday let.</td>
</tr>
<tr>
<td>ENF/15/00039</td>
<td>Unauthorised change of use of agricultural outbuildings to office/business use.</td>
</tr>
</tbody>
</table>

**Hulland**

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<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>
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</table>

**Masson**

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>ENF/11/00083</td>
<td>Unauthorised rebuilding of retaining wall.</td>
</tr>
</tbody>
</table>

**Notice Issued**

- Tax Farm Farley Lane Farley Derbyshire DE4 5LQ
- The Beeches Hallmoor Road Darley Dale Derbyshire DE4 2HF
- Milners Off Road Limited Old Road Darley Dale Derbyshire DE4 2ER
- Okeover Arms Mapleton Road Mapleton Derbyshire DE6 2AB
- Laburnum Cottage Mapleton Road Mapleton Derbyshire DE6 2AB
- Land North East Of Holmlea Farm Bungalow Marston Lane Doveridge Derbyshire
- Somersal House Bowling Alley Lane Somersal Herbert Derbyshire DE6 5PD
- Hunters Croft Upwoods Road Doveridge Derbyshire DE6 5LL
- Redmire Gap Intakes Lane Turnditch Derbyshire DE56 2LU
- Common Farm Mugginton Lane End Weston Underwood Ashbourne Derbyshire DE6 4PP
- Blackbrook Lodge Farm Intakes Lane Turnditch Derbyshire DE56 2LU
- Winney Hill Farm Hob Lane Kirk Ireton Derbyshire DE6 3LG

**Pending Consideration**

- Land At The Junction Of Back Lane And Flash Lane, Darley Moor, Matlock.
<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Location</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/13/00108</td>
<td>Unauthorised works to Grade II Listed Building</td>
<td>Corn Mill Cottage Water Lane Cromford Derbyshire DE4 3QH</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00052</td>
<td>Installation of plastic windows in a listed building.</td>
<td>101 The Hill Cromford Derbyshire DE4 3QU</td>
<td>Notice Issued</td>
</tr>
<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>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00060</td>
<td>Unauthorised installation of two roof-lights and flue on the rear roof slope.</td>
<td>Swifts Cottage 15 The Hill Cromford Derbyshire DE4 3RF</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00104</td>
<td>Unauthorised internal works and demolition of external boundary wall.</td>
<td>Mill Managers House Cromford Mill Mill Road Cromford Derbyshire DE4 3RQ</td>
<td>Notice Issued</td>
</tr>
<tr>
<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>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00024</td>
<td>Unauthorised occupation of holiday let as residential dwelling.</td>
<td>The Farrow Chestnut Farm Abel Lane Bonsall Derbyshire</td>
<td>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00037</td>
<td>Unauthorised extension to property.</td>
<td>1 Water Lane Cromford Derbyshire DE4 3QH</td>
<td>Notice Issued</td>
</tr>
<tr>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00084</td>
<td>Unauthorised banner advertisements.</td>
<td>RIVA 124 - 126 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Pending Consideration</td>
</tr>
<tr>
<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>
</tr>
<tr>
<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>
</tr>
<tr>
<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>
</tr>
</tbody>
</table>
### Matlock All Saints

<table>
<thead>
<tr>
<th>ENF/14/00006</th>
<th>Unauthorised change of use from domestic curtilage to use as commercial car park relating to Parkside Fitness</th>
<th>5 Olde Englishe Road Matlock Derbyshire DE4 3RR</th>
<th>Pending Consideration</th>
</tr>
</thead>
<tbody>
<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>
</tr>
<tr>
<td>ENF/15/00087</td>
<td>Breach of conditions on planning application number 14/00493/FUL</td>
<td>10 Imperial Road Matlock Derbyshire DE4 3NL</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00014</td>
<td>Unauthorised fencing/decking to the side and rear with associated engineering operations.</td>
<td>38 Megdale Matlock Derbyshire DE4 3JW</td>
<td>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<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>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00098</td>
<td>Unauthorised side extension.</td>
<td>21 Imperial Road Matlock Derbyshire DE4 3NL</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00101</td>
<td>Unauthorised erection of sheds, chicken enclosures and a &quot;shepherds hut&quot;.</td>
<td>High Croft Salters Lane Matlock Derbyshire DE4 2PA</td>
<td>Pending Consideration</td>
</tr>
</tbody>
</table>

### Matlock St Giles

<table>
<thead>
<tr>
<th>ENF/13/00084</th>
<th>Unauthorised erection of workshop</th>
<th>Phillips Woodware Smuse Lane Matlock Derbyshire DE4 5EY</th>
<th>Notice Issued</th>
</tr>
</thead>
<tbody>
<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>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00025</td>
<td>1/ Unauthorised engineering operations to create an earth bund and storage of materials behind it. 2/ Rearrangement of existing bund.</td>
<td>Land Off Alders Lane, Tansley.</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00046</td>
<td>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</td>
<td>Hurst Cottage 14 Bull Lane Matlock Derbyshire DE4 5LX</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00053</td>
<td>Unauthorised access off Riber Road.</td>
<td>Brookdale Riber Road Lea Derbyshire DE4 5JQ</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00056</td>
<td>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.</td>
<td>72 Starkholmes Road Matlock Derbyshire DE4 3DD</td>
<td>Pending Consideration</td>
</tr>
</tbody>
</table>
ENF/16/00057  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.

ENF/16/00089  Breaches of Planning Control

ALS Scaffolding Services Limited Sunnyside Farm Whitelea Lane Tansley Derbyshire DE4 5FL

ENF/16/00102  Unauthorised excavation of front garden and tipping of excavated material in the rear garden.

ENF/16/00040  Unauthorised satellite dish.

78 Starkholmes Road Matlock Derbyshire DE4 3DD

Pending Consideration

Pending Consideration

Pending Consideration

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

Home Farm Thurvaston Road Marston Montgomery Derbyshire DE6 2FF

Notice Issued

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

Barn Opposite Field Cottage Finny Lane Rodsley Derbyshire

Pending Consideration

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

Airways Airsports Darley Moor Airfield Darley Moor Ashbourne Derbyshire DE6 2ET

Pending Consideration

Stanton

ENF/16/00067  Unauthorised erection of a timber fence adjacent to a highway.

2 River View Dale Road North Darley Dale Derbyshire DE4 2HX

Pending Consideration

ENF/16/00086  Unauthorised erection of an oversized fence adjacent to a highway.

1 River View Dale Road North Darley Dale Derbyshire DE4 2HX

Pending Consideration

Wirkswoth

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


Notice Issued

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.

Peak View Caravan Site Brassington Lane Wirksworth Derbyshire

Notice Issued

ENF/15/00079  Works to a Listed Building

14 Market Place Wirksworth Derbyshire DE4 4ET

Pending Consideration

ENF/15/00082  Unauthorised engineering operations.

Land Off Oakerthorpe Road Bolehill Derbyshire

Pending Consideration

ENF/16/00040  Unauthorised satellite dish.

21 North End Wirksworth Derbyshire DE4 4FG

Pending Consideration
<table>
<thead>
<tr>
<th>ENF/16/00045</th>
<th>Change of use of land from agricultural to caravan site and domestic curtiage (for stationing of childrens play equipment). Land to the rear of Ladycroft, Wash Green, Wirksworth, DE4 4FD</th>
<th>Ladycroft Wash Green Wirksworth Derbyshire DE4 4FD</th>
<th>Notice Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/16/00064</td>
<td>Installation of plastic windows.</td>
<td>45 North End Wirksworth Derbyshire DE4 4FG</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00079</td>
<td>Erection of timber fence over 1 metre in height adjacent a highway.</td>
<td>20 Willowbath Lane Wirksworth Derbyshire DE4 4AY</td>
<td>Pending Consideration</td>
</tr>
<tr>
<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>Pending Consideration</td>
</tr>
</tbody>
</table>

**Total Open Cases**: 86
**Enforcement Investigations Closed**

**In the 6 Months Prior to 05/01/2017**

### Ashbourne South

<table>
<thead>
<tr>
<th>Case Ref</th>
<th>Description</th>
<th>Address</th>
<th>Outcome</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/16/00062</td>
<td>Breach of condition 26 of planning permission 13/00854/REM - erection of 38 dwellings and associated public open space and infrastructure (approval of reserved matters), Land off Lodge Farm Chase, Ashbourne, Derbyshire</td>
<td>4 Bower Close Ashbourne Derbyshire DE6 1TA</td>
<td>Complied Voluntarily</td>
<td>29/09/2016</td>
</tr>
</tbody>
</table>

### Carsington Water

<table>
<thead>
<tr>
<th>Case Ref</th>
<th>Description</th>
<th>Address</th>
<th>Outcome</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/16/00074</td>
<td>Alleged unauthorised timber building to front of property known as Dragons End, Town Street, Brassington</td>
<td>Dragons End Town Street Brassington Derbyshire DE4 4HB</td>
<td>Complied Voluntarily</td>
<td>11/10/2016</td>
</tr>
</tbody>
</table>

### Clifton And Bradley

<table>
<thead>
<tr>
<th>Case Ref</th>
<th>Description</th>
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<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/16/00072</td>
<td>Alleged unauthorised building works on Mill Lane at Shirley.</td>
<td>Thatch Lodge Mill Lane Shirley Derbyshire DE6 3AR</td>
<td>Complain Unfounded</td>
<td>27/09/2016</td>
</tr>
<tr>
<td>ENF/16/00091</td>
<td>Unauthorised change of use of land from Agricultural to domestic curtilage, to the rear of property known as 2 Yew Tree Lane, Bradley.</td>
<td>2 Yew Tree Lane Bradley Derbyshire DE6 1PG</td>
<td>Complied Voluntarily</td>
<td>18/11/2016</td>
</tr>
<tr>
<td>ENF/16/00096</td>
<td>Breach of condition relating to site storage and off road parking.</td>
<td>Rose Cottage Snipes Lane Snelston Derbyshire DE6 2DL</td>
<td>Complied Voluntarily</td>
<td>18/11/2016</td>
</tr>
</tbody>
</table>

### Darley Dale

<table>
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<tr>
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<th>Outcome</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/16/00005</td>
<td>Use of a domestic garage/premises to run a chemical paint stripping business.</td>
<td>6 Sunnyside Terrace Farley Hill Matlock Derbyshire DE4 5LT</td>
<td>Complain Unfounded</td>
<td>16/08/2016</td>
</tr>
<tr>
<td>ENF/16/00042</td>
<td>Unauthorised internally illuminated advertisement.</td>
<td>Valley Lodge Nursing Home Bakewell Road Matlock Derbyshire DE4 3BN</td>
<td>Planning Application Received</td>
<td>14/11/2016</td>
</tr>
<tr>
<td>ENF/16/00052</td>
<td>Creation of earth bund in a field to the south of Bent Farm.</td>
<td>Ameycroft Farm Farley Hill Matlock Derbyshire DE4 5LR</td>
<td>Complied Voluntarily</td>
<td>20/12/2016</td>
</tr>
<tr>
<td>ENF/16/00069</td>
<td>Unauthorised erection of wooden carport structure</td>
<td>Slayleigh 1 Rotherwood Villas Dale Road South Darley Dale Derbyshire DE4 2EU</td>
<td>Planning Application Received</td>
<td>21/11/2016</td>
</tr>
<tr>
<td>ENF/16/00075</td>
<td>Alleged unauthorised garage.</td>
<td>Whitworth House Dale Road North Darley Dale Derbyshire DE4 2FS</td>
<td>Complain Unfounded</td>
<td>04/10/2016</td>
</tr>
<tr>
<td>ENF/16/00082</td>
<td>Alleged unauthorised engineering operations.</td>
<td>Oker House Moor Lane Darley Dale Derbyshire DE4 2HG</td>
<td>Complied Voluntarily</td>
<td>19/10/2016</td>
</tr>
<tr>
<td>ENF/16/00061</td>
<td>Unauthorised erection of lamposts within an agricultural field, to facilitate vehicular parking.</td>
<td>Callow Hall Country House Hotel Mapleton Road Mapleton Derbyshire DE6 2AA</td>
<td>Complied Voluntarily</td>
<td>04/11/2016</td>
</tr>
<tr>
<td>ENF/16/00081</td>
<td>Alleged breach of condition 4 of planning permission 16/00419/FUL - cond'n 4 states, 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.</td>
<td>Abbotsholme Stud Marston Bank Rocester Derbyshire ST14 5BP</td>
<td>Complied Voluntarily</td>
<td>03/11/2016</td>
</tr>
<tr>
<td>ENF/16/00039</td>
<td>Problem beginning to cause damage and staining to the historic fabric of a Listed Building</td>
<td>Greyhound Hotel Market Place Cromford Derbyshire DE4 3QE</td>
<td>Complied Voluntarily</td>
<td>17/08/2016</td>
</tr>
<tr>
<td>ENF/16/00058</td>
<td>Unauthorised facia advertisement.</td>
<td>F Coffee 6 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Complied Voluntarily</td>
<td>22/11/2016</td>
</tr>
<tr>
<td>ENF/16/00070</td>
<td>Alleged engineering operations</td>
<td>Land To The South Of Yeats Lane, Cromford.</td>
<td>Complaint Unfounded</td>
<td>21/09/2016</td>
</tr>
<tr>
<td>ENF/16/00077</td>
<td>Untidy site</td>
<td>Promenade Fish And Chip Shop 128 - 132 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Complied Voluntarily</td>
<td>05/10/2016</td>
</tr>
<tr>
<td>ENF/16/00083</td>
<td>Alleged change of use for selling tea and coffee.</td>
<td>Simon Dunn Chocolatiers 52 - 54 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Complaint Unfounded</td>
<td>12/10/2016</td>
</tr>
<tr>
<td>ENF/16/00085</td>
<td>Alleged unauthorised alterations to a Listed Building.</td>
<td>Greyhound Hotel Market Place Cromford Derbyshire DE4 3QE</td>
<td>Complaint Unfounded</td>
<td>18/10/2016</td>
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<tr>
<td>ENF/16/00054</td>
<td>Engineering operations on land the East side of 80 Jackson Road.</td>
<td>80 Jackson Road Matlock Derbyshire DE4 3JQ</td>
<td>Complaint Unfounded</td>
<td>16/08/2016</td>
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<tr>
<td>ENF/16/00060</td>
<td>Condition 4 on Planning Permission office code 08/00087/FUL &quot;Erection of Conservatory&quot;</td>
<td>15 Bank Gardens Matlock Derbyshire DE4 3WA</td>
<td>Complied Voluntarily</td>
<td>17/08/2016</td>
</tr>
<tr>
<td>ENF/16/00094</td>
<td>Alleged unauthorised advertisements.</td>
<td>8 Snitterton Road Matlock Derbyshire DE4 3LZ</td>
<td>Complaint Unfounded</td>
<td>14/11/2016</td>
</tr>
<tr>
<td>Reference</td>
<td>Description</td>
<td>Address</td>
<td>Decision</td>
<td>Date</td>
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<tr>
<td>ENF/15/00088</td>
<td>Unauthorised play equipment at The Gate Inn, Tansley.</td>
<td>Gate Inn The Knoll Tansley Derbyshire DE4 5FN</td>
<td>Appeal Allowed</td>
<td>07/11/2016</td>
</tr>
<tr>
<td>ENF/15/00098</td>
<td>Unauthorised engineering operations on fields to the South West of Derwent Treescapes.</td>
<td>Derwent Treescapes Limited Deep Carr Lane Matlock Derbyshire DE4 3NQ</td>
<td>Planning Application Received</td>
<td>16/08/2016</td>
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<tr>
<td>ENF/16/0002</td>
<td>Erection of wooden structure building and untidy site consisting of the storage of pipes, pipe fittings, buckets, plastic containers, burnt materials, old car parts, old toilet seat,steel frames, bags of waste and discarded household materials.</td>
<td>55 Church Street Matlock Derbyshire DE4 3BY</td>
<td>Complied Voluntarily</td>
<td>26/08/2016</td>
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<tr>
<td>ENF/16/00018</td>
<td>Unauthorised extensions to existing stables and field shelter.</td>
<td>Land To The West Of Three Lanes End Whitelea Lane Tansley Derbyshire</td>
<td>Planning Application Received</td>
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### Norbury

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<tbody>
<tr>
<td>ENF/16/00068</td>
<td>Alleged breach of condition 9 relating to the slurry pit on land at Four Oaks Farm, Shields Lane, Roston.10/00580/FUL - condition 9 &quot;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&quot;.</td>
<td>Land To The South Of West View Shields Lane Roston Derbyshire</td>
<td>Complaint Unfounded</td>
<td>20/09/2016</td>
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### Wirksworth

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<tbody>
<tr>
<td>ENF/16/00059</td>
<td>Unauthorised alterations to a Listed Building.</td>
<td>The Old Manse Coldwell Street Wirksworth Derbyshire DE4 4FB</td>
<td>Not in the Public interest to pursue</td>
<td>04/01/2017</td>
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<tr>
<td>ENF/16/00088</td>
<td>Alleged unauthorised extension to an existing building.</td>
<td>Ecclesbourne Valley Railway Wirksworth Station Station Road Wirksworth Derbyshire DE4 4FB</td>
<td>Complaint Unfounded</td>
<td>31/10/2016</td>
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<tr>
<td>ENF/16/00104</td>
<td>Alleged unauthorised smoking shelter</td>
<td>Red Lion Hotel Market Place Wirksworth Derbyshire DE4 4ET</td>
<td>Complaint Unfounded</td>
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**Total Closed Cases**: 30
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<th>SITE/DESCRIPTION</th>
<th>TYPE</th>
<th>DECISION/COMMENT</th>
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<tbody>
<tr>
<td>14/00224/FUL</td>
<td>North of Viaton Industries Ltd, Manystones Lane, Brassington</td>
<td>PI</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
</tr>
<tr>
<td>15/00326/CLEUD</td>
<td>Aragorn Cabin, Mercaston Lane, Mercaston</td>
<td>WR</td>
<td>Appeal allowed – copy of appeal decision attached</td>
</tr>
<tr>
<td>15/00842/FUL</td>
<td>The Old Cottage, Main Street, Kirk Ireton</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>ENF/15/00097</td>
<td>Land located at Aragorn Cabin, Mercaston Lane, Mercaston</td>
<td>WR</td>
<td>Appeal allowed – copy of appeal decision attached</td>
</tr>
<tr>
<td>16/00095/OUT</td>
<td>Babbs Lane, Doveridge</td>
<td>PI</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00206/FUL</td>
<td>Orchard View, Yeldersley</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00307/FUL</td>
<td>The Old Cottage, Main Street, Kirk Ireton</td>
<td>WR</td>
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<tr>
<td>16/00467/FUL</td>
<td>The Pigsty, Green Lane, Norbury</td>
<td>WR</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
</tr>
<tr>
<td>16/00066/FUL</td>
<td>Ley Hill House, Brocksford, Doveridge</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00178/PDA</td>
<td>The Cedars, Main Street, Hollington</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00268/FUL</td>
<td>17 Belle Vue Road, Ashbourne</td>
<td>WR</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
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<tr>
<td>16/00088/OUT</td>
<td>Land between Flakes Barn and The Cemetery, West End, Brassington</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00809/FUL</td>
<td>Lower Street, Doveridge</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00262/FUL</td>
<td>The Barn opposite Haven House Farm, Waldley</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>16/00097/FUL</td>
<td>Mayfield Road, Ashbourne</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>16/00254/FUL</td>
<td>Land off Mapleton Road, Ashbourne</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>16/00476/FUL</td>
<td>Land east of Glebe Farm, Lower Street, Doveridge</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00220/FUL</td>
<td>The Ostrich, Longford</td>
<td>HEAR</td>
<td>Appeal being processed</td>
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**Central**

| T/16/00086/TPO | The Sycamores, 2 Wishingstone Way, Matlock | WR | Appeal being processed |
| ENF/16/00041 | 2, 4 and 6 North Parade, Matlock Bath | WR | Appeal being processed |
| 16/00151/FUL | Barn & Lane, Brick Kiln Lane, Wash Green, Wirksworth | WR | Appeal being processed |
| 16/00385/FUL | Land opposite 30 Bedehouse Lane, Cromford | WR | Appeal being processed |
| 16/00564/FUL | Land off Alders Lane, Tansley | WR | Appeal being processed |

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decision

Inquiry opened on 11 October 2016
Site visit made on 20 October 2016

by Paul Jackson  B Arch (Hons) RIBA
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 December 2016

Appeal Ref: APP/P1045/W/15/3130874
North of Viaton Industries Ltd, Manystones Lane, Brassington, Matlock, Derbyshire DE4 4HF

- 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 Griffe Grange Wind Farm Ltd against the decision of Derbyshire Dales District Council.
- The application Ref 14/00224/FUL, dated 1 April 2014, was refused by notice dated 9 March 2015.
- The development proposed is to construct and operate five (5) wind turbines with a maximum tip height of 100m together with ancillary development comprising substation building, new and upgraded access points off Manystones Lane and B5056 and tracks (circa 3.7 km total length) hardstanding and temporary construction compound and associated works.

Preliminary matters

1. The development was revised in August 2015 to reduce the number of turbines from 5 to 3. The appeal was submitted on this basis.

2. The planning application had been accompanied by an Environmental Statement (ES) and Addendum prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. Further Environmental Information (FEI) was submitted in July 2015 pursuant to the reduction in the number of turbines and new consultation was carried out. The Council subsequently determined at a meeting on 29 June 2016 that had it been a matter for its consideration, planning permission for 3 turbines would have been refused. I subsequently decided that no party would be prejudiced if I considered the appeal on the basis of the 3 turbine proposal.

3. The turbines are designated T3, T4 and T5, T3 being the most northerly. The Inquiry sat for 6 days. In addition to the accompanied site visit held on 20 October, extensive unaccompanied visits were carried out in the surrounding area including locations drawn to my attention at the Inquiry.

Decision

4. The appeal is dismissed.
Main Issues

5. After the meeting on 29 June 2016, the Council issued a list of putative reasons for refusal, similar to that issued on 9 March 2015 but omitting one reason relating to the effect on residential amenity. I consider that the main issues are as follows:

- The effect of the proposed development on the landscape character and visual amenity of the surrounding area;
- The effect of the proposal on the settings of heritage assets; and
- Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Reasons

The site and surroundings

6. The area generally is characterised by gently undulating plateau topography punctuated by steeply sloping valleys, historically eroded by rivers and streams. The proposed turbines would be situated on the upper slopes of the Griffe Grange Valley, which is a deeply incised and heavily wooded feature containing the main A5012 linking Cromford and Buxton. The road forms the boundary of the Peak District National Park (PDNP) which lies to the north. Above the steep, wooded lower slopes of the valley lie extensive more gently inclined areas of pasture which lead up to a short ridge on which lie the prominent limestone Harborough Rocks. Three existing wind turbines are conspicuous on the high ground along the ridge or plateau summit, east of the rocks, permitted in 2012 and 2013. Four other earlier turbines lie on the lower south facing slopes. All are around 100 metres (m) high to the blade tip. Quarrying activity and associated industry is a characteristic of this part of Derbyshire.

Policy background

7. For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan for the area consists of saved policies of the Derbyshire Dales Local Plan with modifications, adopted in November 2005 (LP). Policy SF3 specifically addresses development conspicuous from the PDNP, advising that planning permission will not be granted for development that may adversely affect the purposes of the PDNP or be harmful to its valued characteristics. Policy SF4 indicates that development in the countryside will only be permitted if it meets a number of criteria including that it forms part of a farm diversification scheme or provides for needs that can only be met in a rural area; are appropriate in nature and scale; preserves or enhances the character and appearance of the countryside; and minimises any adverse impact on the local environment. Whilst not referred to in the reasons for refusal, policy SF5 is relevant; it seeks to control the design and appearance of all development, saying that permission will only be permitted where proposed development meets 6 criteria, including that it preserves or enhances the quality and local distinctiveness of its surroundings.

8. The aim of policy NBE8 is to prevent any development that does not protect or enhance the character, appearance and local distinctiveness of the landscape. With regard to listed buildings, policy NBE16 is restrictive in nature, saying that
planning permission will only be granted where it does not have an adverse impact on the special character or setting of a listed building. Policy NBE21 is permissive in respect of conservation areas, advising that permission will be granted for development within or adjacent to a conservation area provided that it preserves or enhances the character or appearance of the area. In this case, the development would be visible from the Aldwark and parts of the Bonsall Conservation Area but well beyond a distance that could be described as ‘adjacent’. The LP advises in policy NBE24 that planning permission will not be granted for any development likely to disturb or have an adverse impact on Scheduled Ancient Monuments (SAMs) or their setting.

9. The LP recognises in policy CS5 that a balance is necessary where renewable energy is concerned, advising that such installations will be granted planning permission where it can be demonstrated that the benefits outweigh any adverse impact on the immediate and wider environment; and are sited to minimise the amount of harm to the landscape. Wind turbine energy is covered by policy CS6, which says that permission will only be granted for wind turbine development where it can be demonstrated that there would be no unacceptable adverse impact on the immediate or wider landscape; and there would be no unacceptable problems in terms of neighbouring uses.

10. The replacement Derbyshire Dales Local Plan Draft of April 2016 has not reached a stage where it can be given any significant weight.

11. National policy as a whole supports and encourages the development of renewable energy. The National Planning Policy Framework (NPPF) has a number of core principles at paragraph 17. One of these specifically supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources. Another core principle says that a good standard of amenity should always be sought for existing and future occupants of buildings and that planning should take account of the different roles and character of different areas......recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Another principle is that planning should also conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

12. Paragraph 98 of the NPPF says that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved if their impacts are (or can be made) acceptable. Local authorities (or decision makers) are advised to follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011.

13. Planning Practice Guidance (PPG) advises in the section on renewable and low carbon energy that:
   - the need for renewable or low carbon energy does not automatically override environmental protections;
   - cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases;
local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas;

great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;

proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration;

protecting local amenity is an important consideration which should be given proper weight in planning decisions.

14. Most of the policies of the LP referred to in the reasons for refusal do not recognise the principle of balancing harm against benefits that is an important tenet of up to date renewable energy and heritage policies in the NPPF. Paragraph 215 says that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Read as a whole, whilst LP policies CS5 and CS6 are consistent, the weight to be given to policies SF3, SF4, NBE8, NBE16 and NBE24 is reduced.

15. To conclude on national advice, following a Written Ministerial Statement (WMS) on 18 June 2015, PPG now advises that when considering applications for wind energy development, local planning authorities should (subject to a transitional arrangement\(^1\)) only grant planning permission if:

- The development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
- Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

16. The WMS goes on to say that whether the proposal has the backing of the affected local community is a planning judgement for the local planning authority. There is no local or neighbourhood plan policy in this case that identifies areas suitable for wind energy development.

Landscape character and visual amenity

17. The site lies within National Landscape Character Area (NLCA) 52 White Peak, described as a raised, undulating limestone plateau deeply incised with steep sided limestone valleys; a strong sense of place deriving from the influence of the underlying geology on landform and on natural and manmade features such as caves, crags, dry-stone walls and traditional buildings. The NLCA summary notes that the plateau is rich in archaeology including neolithic burial mounds such as Minning Low; and early lead workings. Within the NLCA, the site lies in Derbyshire County Council’s 2013 locally designated Landscape Character Type (LCT) Plateau Pastures. Key characteristics include a gently rolling upland plateau with limestone outcrops on hill summits and steeper slopes; an open landscape with expansive views; medium to large regular

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\(^1\) When a valid application has been made and the development plan does not identify suitable sites, the PPG indicates that the Council can find the proposal acceptable if, following consultation, it is satisfied it has fully addressed the planning impacts identified by local communities and therefore has their backing
fields enclosed by dry-stone walls with narrow strip fields around settlements; small isolated field barns; and small pits and hummocks in areas of historic lead mining. Large modern quarries and associated plant are noted as a prominent feature dominating some areas.

18. The PDNP Authority carried out its own landscape character assessment in 2007-2009, including areas adjoining the PDNP which are visible from it. This places the proposed turbines in a significantly smaller area designated as Limestone Hills and Slopes. The key characteristics differ little from the Derbyshire assessment, except for notably including ‘prehistoric monuments, often on hilltops’. Active quarrying is also noted in the text as a heavy influence in places. Comparative analysis prepared for the Inquiry by both main parties shows that Derbyshire’s Plateau Pastures LCT employs a rather broader brush and includes areas designated by PDNP as Limestone Village Farmlands and Limestone Plateau Pastures as well as Limestone Hills and Slopes. The PDNP assessment indicates that the Limestone Hills and Slopes LCT does not extend northwards across the steep Griffe Grange valley, into Limestone Village Farmlands and Limestone Plateau Pastures within the NP. Nevertheless, there are many common characteristics and a sense of continuity of landscape character across and beyond the NP boundary. According to the PDNP Local Development Framework (LDF), this is a valued characteristic. The valley provides the southern setting for the NP.

19. The appellant combines the established studies, noting that the host landscape comprises the ‘Griffe Grange Plateau’, a southern fragment of the wider Plateau Pastures / Limestone Hills and Slopes LCTs. It is put that due to quarrying activity, existing wind turbines and industry, this area has a landscape character of ‘medium’ sensitivity, lower than surrounding areas. The sensitivity of the wider landscape to turbine development was considered in the LUC study ‘Peak Sub-Region Climate Change Study’ of 2009, which found the level of sensitivity to large wind turbines in the Derbyshire Dales planning area to be predominantly high. That was before the development of the 4 turbines at Carsington Pastures approved in 2008.

20. ‘Sensitivity’ as a concept is discouraged in the most recent Guidelines for Landscape Visual Impact Assessment (GLVIA 3rd edition), which prefers the term ‘nature of receptor’. Active quarrying at Grangemill, Ryder Point and abandoned quarries at Hopton and Middleton demonstrate exploitation of the landscape for generations; they represent a continuation of a long established and visible source of employment in Derbyshire. The activity is most noticeable at Grangemill near Griffe Grange, though is often hard to see due to screening and bunds. It is a feature of the wider landscape around Matlock, Wirksworth, Cromford and Parwich and further afield. Associated stone processing industries at Hoben and Sibelco (formerly Viaton) are more prominent in terms of buildings. Quarries and buildings generally permeate the surrounding area in terms of visual impact and noise, further emphasised by the heavy goods vehicle traffic necessary to service them.

21. More significantly, since 2009, 7 wind turbines have been erected, 4 on the southern slopes and 3 sited more or less on the highest points of the Haborough ridge. These latter are particularly prominent on the skyline.

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2 Paragraph 9.15
3 Where referring to Grangemill quarry in this decision, I am including the adjacent Longcliffe and Ben Bennetts operations
Together, they are now a principal determinant of landscape character within a radius of about 1.5 -2 km and have changed the nature of the receiving landscape, to a 'gently rolling upland plateau with limestone outcrops and wind turbines’. They also increase the susceptibility of the area to the change that would result from the appeal scheme, in the sense that in terms of the acceptability of further development, a ‘tipping point’ has moved closer.

22. However, quarrying and industry is much less apparent viewed from parts of the PDNP to the north where the Grangemill quarry complex is not a dominant feature, from eastern parts of Ible, from Bonsall and further north around Winster. The upper southern slopes of the valley, where the proposed turbines would be situated, remain conspicuously undeveloped, the 3 existing Viaton and Ryder Point turbines seeming to originate beyond the ridge line and those at Carsington seen intermittently as revolving blades. Seen in a foreshortened way, above the woods in the Griffe Grange valley, these fields contribute positively to the sense of ‘flow’ considered desirable by the PDNP. Moreover, in my view, the valley has a landscape character of its own, comprising the steeply wooded valley bottom, framed by attractive informal pasture and the uneven remnants of lead mining. This is apparent from high ground on both sides and particularly from Harborough Rocks, Ible, Slaley, Middleton and many parts of public rights of way. In a previous 1988 planning designation, the valley and southern slopes were recognised by the Council as a Special Landscape Area. Whilst such designations are now replaced by landscape character assessments, this is another indicator that the valley is a valued landscape.

23. The proposed new turbines would descend the north facing slope in a roughly straight line from one of the existing Ryder Point turbines, in a north north west direction. T5 would be located on a ridge line and on its own, arguably seen as part of the existing cluster, but T4 and T3 would be distinctly on sloping land. As a line of 3, they would be seen as a clear departure from the existing cluster which although not deliberately planned as such, is confined to the plateau summit and south facing slopes. This would be a contrast in pattern and relationship to the existing group and would appear incohesive, particularly when seen from the north east and south west. From many places to the north, the 3 new turbines would be seen in a strong linear formation along with an existing turbine at Ryder Point, creating an unfortunate confluence of moving blades. In the context of the Griffe Grange valley, they would form conspicuous and intrusive elements in an otherwise largely unspoilt landscape.

24. Moreover, as the appellant acknowledges, these new turbines would significantly extend the radius within which significant visual effects would occur, into the PDNP. T3 would lie within around 600m of the PDNP boundary. The cumulative impact would lead to the whole group of 10 turbines becoming a dominant characteristic, defining all the high ground around Harborough Rocks as a wind farm landscape. The existing quarries and processing industries, despite being intensive in parts, do not have the same level of visibility and from many places are hard to see. Nor is the existing 132 Kv power line on lattice pylons at all prominent. Moreover, the new turbines would be highly visible from many parts of the PDNP on northern valley slopes of the Griffe Grange valley and from extensive areas of Bonsall Moor, Ible and Slaley. The sloping landform would accentuate their visibility. In my opinion,

\[^4\] See VP6.
the sloping plateau and valley is unable to accommodate this degree of change without altering the overall character of the area or its integrity as a valued landscape.

25. Moreover, the high ground around Harborough Rocks, 379m high at its highest point, visually defines the southern edge of the White Peak NLCA along with the high ground at Middleton Top (358m at the highest point). The 4 Carsington pastures turbines on the south facing slopes were successful at appeal partly because of the existing despoliation of the landscape on Manystones Lane at the Hoben works but also because they had no significant landscape and visual effect on the PDNP; and its objectives were not undermined. The Viaton turbine was allowed because the Carsington scheme contributed to the baseline condition and it would only constitute minor adverse additional harm to landscape character in the planning balance. A similar picture applies in respect of the 2 subsequent Ryder Point turbines, the Viaton turbine adding further to a new landscape baseline in that assessment. However, the bar is higher in areas which form the setting of the PDNP. The introduction of a conspicuous line of 3 turbines extending down to a height of 304m (the base of T3) just above the point where the valley sides steepen, would very substantially alter and extend the nature of the group, significantly diminishing the landscape character of the Plateau Pastures and Limestone Hills and Slopes LCTs in the Griffe Grange Valley.

Visual amenity

26. Visual receptors include local residents, people working and driving in the area, and recreational users such as holidaymakers, cyclists, walkers and horse riders. In this area there is a dense network of public rights of way including a national trail, the Pennine Bridleway (incorporating at this point the regional trails the High Peak Trail and Midshires Way); and the Limestone Way regional trail. A mesh of footpaths and bridleways criss-crosses the valleys and hills including the Four Circuit Walks from Middleton Top, which are also signposted. A noticeable feature of the various published walks is the extent to which they incorporate land in the valley outside the PDNP but within its setting and providing extensive views towards it.

27. The impact of the 3 additional turbines on users of the Pennine Bridleway on the south side of the ridge would be limited, as this route is significantly affected by 7 existing turbines as well as quarries and works at Ryder Point, Sibelco and Hoben. It is also largely outside the PDNP at this point. For users of the Limestone Way, on the other hand, the change in the character of the landscape would be apparent for a substantial length of the path from Upper Town (Viewpoint (VP) 8) through to Bonsall Mines (VP6) to Ible (VP1) and Longcliffe (VP4). Turbines are already a feature in views to the south, but are not dominant because of their siting beyond or just over the skyline. The new turbines would extend much further in to the valley towards this route. The Grangemill quarry complex would be a very significant distraction but does not compete with the visual impact of 3 100m high structures which would affect it for a much greater length. The Sibelco works on the ridge appears akin to a large farm and does not compete with the scale of the landscape in the same way as wind turbines would.

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5 APP/P1045/A/07/2054080 paragraph 59
28. The Limestone Way mainly passes through a more small scale landscape of fields and former lead mines around Bonsall, from where the depth of the Griffe Grange valley is hard to perceive. At Ible, travelling west, the land begins to descend and the woods become apparent; there is a sudden realisation of a deeply incised and attractive landscape, largely unchanged, to which the sloping Griffe Grange plateau area contributes and forms part of the setting for this part of the PDNP. T3 would be about 1 km away from here, well within a distance acknowledged to have a significant influence on the surroundings. The impact of the development on users of this path would be noticeable and adverse.

29. Harborough Rocks are usually accessed from a car park on Manystones Lane. They are reached by a footpath which crosses the Pennine Bridleway past the Hoben works, which have a dramatic audible and visible impact on the experience of visitors. Long views to the south towards Carsington Water are obtainable past the works and through the Carsington Pastures turbines. On approaching the rocks, the Harborough Cave (scheduled as an ancient monument for the ancient contents of the cave interior) becomes apparent. The summit is marked by a trig point and is popular for its wide ranging views which extend for 360 degrees including the prominent Minning Low hill top to the north west. Turbines dominate the view south and the clear ridge in the landform to the east. The new turbines would considerably extend the group seen from here, T3 in particular interfering with the view towards the focal point of Masson Hill above Matlock. Much of the intervening land around Bonsall is in the PDNP. T4 and T5 would be interposed in the line of sight towards the nearest high point at Middleton Moor and the Middleton Low tumulus above the disused Hopton Quarry. Altogether, the new turbines would be a very unwelcome distraction in the view over the PDNP that would diminish the experience of Harborough Rocks, the more so because the overall view is already compromised.

30. From Harborough Rocks one of the circular routes descends the hill in an easterly direction towards Griffe Grange. Users of 3 of the 4 routes would be particularly conscious of the new turbines because they would be a dominant element in their perception of the upper slopes, the valley and the PDNP landscape to the north.

31. The hamlet of Ible lies high on the south and south west facing slope of the Griffe Grange valley at about 285m above sea level. It is accessed up a steep narrow lane. The residents enjoy close-at-hand views of the wooded valley and the Griffe Grange slopes opposite, with Harborough Rocks above. From some western parts of the settlement, Grangemill quarry is a prominent feature and in most of the village, machinery in the quarry can be heard, the intensity depending on wind direction. However, the predominant character of the area derives from its close community, farming activity and relative remoteness. Quarrying noise and dairy activity does not distract from a distinct sense of rural tranquillity. Dwellings and south facing gardens here would be about 1 km from T3 (VP1) which would be at 304m above sea level, in direct line of sight. Existing turbines lie high on the ridge at between 310-347m and appear to be based beyond the skyline. From here, the development would represent a significant and noticeable extension of the existing wind turbine array into a new part of the landscape. Together with the existing detracting elements in the form of the quarry (which is being extended) and existing turbines on the ridge, the new development would
considerably diminish the perception of the landscape from this part of the PDNP.

32. I give little weight to the appellant’s submissions on the level of tranquillity experienced in the area\(^6\), as they appear to take account of some quarries no longer operating and do not account for small variations in landform which make a big difference to how a place is experienced. The CPRE tranquillity mapping on which it is based is acknowledged to be derived from a desktop study in many parts of the country and has a 1km square matrix which cannot take account of local variations.

33. Paragraph 5.9.13 of EN-1 states that the fact that a proposed project will be visible from within a nationally designated area such as a National Park should not in itself be a reason for refusing consent. Paragraph 5.9.18 says that a judgement has to be made on whether the visual effects on sensitive receptors, such as local residents and visitors, outweigh the benefits of the project. Wind energy development will always have significant visual effects\(^7\).

34. The PDNP is a statutorily designated landscape of national importance. Paragraph 115 of the NPPF says that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The NPPF goes on to note that the conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks.

35. The statutory purpose of National Parks is to conserve and enhance their natural beauty, wildlife and cultural heritage; and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. Planning Practice Guidance (PPG) says\(^8\) that the duty to have regard to the statutory purposes is particularly important to the delivery of those purposes in protected areas. The duty is relevant in considering development proposals that are situated outside a National Park, but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas. It follows that the bar is set considerably higher in such areas.

36. I conclude on landscape character and visual amenity that the development would significantly extend a wind farm landscape into the Griffe Grange valley which is an important, defining and valued feature of the landscape at the southern edge of the PDNP. The ability to perceive natural beauty in the valley and its contribution to the setting of the PDNP would be harmed; the understanding and enjoyment of the special qualities of the PDNP would be compromised. The effect would be contrary to national policy in the NPPF and PPG and the statutory purposes of national parks.

**Heritage assets**

37. In accordance with the statutory duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard

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\(^6\) LVIA addendum Figure 4b  
\(^7\) Paragraphs 2.7.48/49 of EN-3 say that commercial wind farms are large structures and that there will always be significant landscape and visual effects for a number of kilometres around a site.  
\(^8\) At reference 8-003-20140306
must be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. The preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance. Special attention must also be given, as required by section 72(1) of the LBCA, with respect to any buildings or other land in a conservation area, to the desirability of preserving or enhancing the character or appearance of that area. The appeal site is not within any CA but the proposed turbines would be visible to a degree from parts of the nearest CA in Bonsall. Paragraph 132 of the NPPF indicates that significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting.

38. SAMs are, by definition, of national importance. The immediate area around the appeal site is acknowledged to be rich in archaeological interest, particularly bronze age barrows or lows and post-medieval mining relics. Further afield and visible from the Griffe Grange area and Harborough Rocks are numerous other designated monuments. I do not attempt to deal with all of them individually, noting that some have virtually disappeared due to land use practices and erosion. Most are in dominant positions to gain views over land and settlements or intervisibility with other monuments; this is an important factor in understanding their function and how they were used.

39. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. Historic England guidance indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset. Significance derives not only from a heritage asset’s physical presence, but also from its setting.

40. Heritage significance can be harmed through development within an asset’s setting. The NPPF says that substantial harm to the significance of designated heritage assets of the highest significance (including SAMs, Grade I and II* listed buildings) should be wholly exceptional. If the development would cause less than substantial harm, this harm should be weighed against the public benefits of the proposal.

41. PPG provides advice on conserving and enhancing the historic environment, saying that heritage assets are an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits. The most recent advice in the PPG9 with regard to how heritage should be taken into account in assessing wind turbine applications is: ‘As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of wind turbines on such assets. Depending on their scale, design and prominence...’

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9 6 March 2014
a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset.’

Listed buildings

42. Griffe Walk farmhouse is a late 18th/early 19th century rendered stone building with a graduated slate roof. It lies slightly above its farmstead which lies to the south and has a backdrop of trees. Not all of the buildings in the farm group are modern and the building retains heritage significance as a farmhouse of its time, despite being extended more recently and the installation of UPVC windows of unsympathetic appearance. Its setting consists of the pastoral land associated with its function and location. T3 would be about 600m away on the other side of the bridleway (locally the Chariot Way, an old route between Wirksworth and Bakewell) which at this point links the High Peak Trail and the Limestone Way. The turbines would change the perception of the pastoral setting of the farmhouse as relatively unaltered. However the heritage interest of the building is mainly experienced at close quarters; modern farm buildings also detract. The harm caused by turbine development would affect only a proportion of the setting: from the Chariot Way, the turbines would be behind the viewer. Overall, the degree of harm to heritage significance would be slight; in terms of the NPPF, the harm would be less than substantial.

Conservation Areas

43. Six conservation areas lie between 2 and 5 km of the development. The visibility of the new turbines from Brassington, Carsington/Hopton, Middleton and Wirksworth conservation areas would be absent or negligible. From Aldwark, at a distance of about 2.5km, additional turbines would be visible where buildings and/or trees permit, but the heritage significance of the conservation area, which derives from the historic and architectural interest of the farming settlement and buildings, would be affected to a negligible extent.

44. The heritage significance of Bonsall Conservation Area derives mainly from its historical association with lead mining, which was carried out on the nearby plateau Bonsall Leys and elsewhere. Buildings and fields in the immediate landscape setting are included within its boundary. The main part of the conservation area lies in a steep valley, but from Upper Town, existing turbines are visible across the former mining fields, between houses, at a distance of about 4.5km. The new turbines would add to the existing degree of spread on the horizon between trees but would not add significantly to the existing visual impact. The magnitude of the impact on heritage significance would be negligible. Insofar as LP policy NBE21 can be considered to apply to development that is not adjacent to the conservation area but still visible, the development would comply with the requirement to preserve its character and appearance.

SAMs

The main assets referred to in the Inquiry are as follows:

45. Minning Low: A very prominent hill top site with a Neolithic chambered tomb and 2 bronze age bowl barrows, about 4.2km away. The extensive landscape setting for this site contributes a great deal to an appreciation of its importance, the more so because from the monument, the surrounding views are virtually untroubled by modern development (34m turbines at Hill Top
Farm, Parwich being noticeable but not prominent). The relatively recent hill top tree planting aids in its identification today but obstructs views out. However, even if the trees were to be thinned as is proposed, the proportion of the horizon occupied by turbines at present is very small. The new turbines would extend this, but not by such an extent as to provide any further impediment to understanding and appreciating the significance of its location and surroundings.

46. Moot Low lies on a widely visible rocky outcrop on the slopes leading up to Harborough Rocks, about 1.2km from the nearest proposed turbine. Here the impact of the new turbines would be more significant because those at Ryder Point, Viaton and Carsington are not at all prominent, though probably would have been part of the experience of most visitors on their journey\textsuperscript{10}. The extension to Grangemill quarry including earth bunds curtails views to the north, which makes the remaining views to the west and east more valuable in understanding the setting of this SAM. That to the east would have included a route up to the Low, which is likely to have been a place of assembly, from the 'Portway'. As a result, I consider the magnitude of the impact on significance due to new turbine development to be minor\textsuperscript{11}.

47. Round Low is high on the eastern end of the Harborough ridge near the proposed site of T5. The proximity of Ryder Point quarry and works and other existing turbines indicates that the additional impact on its heritage significance resulting from this scheme would be negligible.

48. Middleton Moor tumulus is a SAM on a high point on the western edge of Middleton Moor about 1.2km from T5, with T4 and T3 descending the valley slope beyond an outcrop. The tumulus enjoys very extensive views, being considerably higher than Minninglow hill. The increase in the spread of wind energy development seen from this point would be significant; moreover, it would be clearly intruding into the Griffe Grange valley setting for the PDNP. T3 would be almost in direct line of sight with the hill top SAM at Minning Low. Although Grangemill quarry is also prominent in this view along with pylons, the distraction to the viewer due to moving turbine blades would be far more detrimental. The conservation of cultural heritage is an important consideration in National Parks, and should be given great weight. I consider the level of overall harm to significance caused by harm to its setting would be minor/medium.

49. The SAM at Harborough cave derives interest for the evidence of Palaeolithic, Neolithic, Iron Age and Roman occupation within it. The cave faces away from the site towards the Hoben Works and the Carsington wind energy development. There would be no additional harm to heritage significance due to the appeal scheme.

50. The remaining heritage assets that need to be mentioned concern lead mining remains on Bonsall Leys, Griffe Grange and Middleton Moor. In general, the remains of mining activity on these sites reflect human interaction with the landscape that is linked with continuing extractive industry including extensive quarrying, the Hoben works (formerly a brickworks, Viaton (now Sibelco) and Ryder Point (stone processing) and the Cromford/High Peak former railway. It could be argued that wind energy is another way in which the landform is being

\textsuperscript{10} Fig 8.4b
\textsuperscript{11} Using the methodology set out in the ES
exploited. The turbines would not be close enough to Bonsall Leys or Middleton Moor to affect appreciation of the significance. T3 and T4 would be sited near the Griffe Bage lead mines including an area of abandoned shafts mentioned in the local Historic Environment Record for Derbyshire. The Council refers to the potential effect of the turbine foundations, access tracks and crane bases on the area, but test pits and trenches dug in 2014 in conjunction with the Council did not reveal any items of particular concern. If I was otherwise minded to allow the proposal, a condition could be imposed to observe the excavations and record any deposits of interest; any permission would also include a micro-siting condition. The proposal would not prevent anyone appreciating the extent and historical interest of any the mining activities on these sites.

51. To conclude on heritage, the degree of harm to the significance of heritage assets is negligible except at 2 locations where it would be minor and minor/medium. In both, it would be ‘less than substantial’ in terms of the NPPF; and well down the scale of ‘less than substantial’ between no harm and ‘substantial harm’. It falls to be considered in the balance.

Other matters

Residential amenity

52. The occupiers of several dwellings in Ible would notice the new turbines on the opposite side of the Griffe Grange valley. T3 would be the closest, at just over 1km. Other turbines on the ridge are already a feature of views from the rear windows and gardens of these houses, particularly the 3 at Viaton and Ryder Point. On visiting all the properties concerned, there would be a significantly increased level of intrusion, but at all the properties concerned, there is a degree of screening from trees and bushes and views of uncluttered countryside in other directions. I do not find that the additional visual impact would cross the threshold of making any of them unpleasant places to live. Nevertheless, the harm caused needs to be considered in the balance.

Other benefits

53. Third parties draw attention to the community benefits that would result from the scheme such as improvements to recreation areas and support for schools. Planning legislation prevents local planning authorities from specifically seeking developer contributions where they are not considered necessary to make the development acceptable in planning terms. Within this context, community benefits are not seen as relevant to deciding whether a development is granted planning permission. Whilst encouraged, such considerations do not fall to be considered as part of the planning balance in this case.

Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused

54. At the present time there is no lessening in the drive to increase onshore wind capacity. The benefits of the proposal in terms of an increase in the supply of renewable energy in Derbyshire, together with a reduction in CO₂ emissions, assisting in mitigating climate change, are very important factors in favour. There would also be benefits to the local economy in terms of opportunities for employment during construction and ongoing maintenance. I have also taken

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12 From DECC document ‘Community Benefits from Onshore Wind Developments: Best Practice Guidance for England’
into account the representations in support from many people living the local area including some living in Ible who would be able to see the proposed turbines from their houses. I have also had regard to the change made to the number of turbines in order to address the community’s concerns, which has reduced the potential for detrimental landscape and visual effects.

55. Against these factors, the harm to landscape character and visual amenity, in a relatively unspoilt area of the Griffe Grange valley that defines the edge of the PDNP and falls within its setting, is a serious objection. The extent to which modern existing industry and quarrying operations have influenced local landscape character in Griffe Grange is overstated by the appellant and is not a very significant factor in appreciating the setting of the PDNP. In any event, the nature and impact of wind turbines as high vertical moving structures is very different to ground based activity. Levels of tranquillity as perceived around many parts of Griffe Grange and in the valley and surrounding hill tops are significantly higher than the appellant claims. Existing wind energy development is sited outside the Griffe Grange valley beyond a clearly perceptible ridgeline, and does not impinge significantly on the valley itself. The proposal would lead to a fundamental change; the extension of a wind farm landscape well into the valley and the southern part of the PDNP around Ible. The harm is sufficient to outweigh the benefits on its own, but the additional harm (though limited) to the setting, and therefore significance, of heritage assets, which in this area are important contributors to landscape character, also needs to be considered. The harm to the residential amenity of occupants of Ible also weighs against the scheme.

56. The scheme would conflict with policies CS5 and CS6 of the LP and with the objectives of national policy as set out in paragraph 115 of the NPPF. The development would also conflict with the landscape character protection objectives of the PDNP LDF.

**Conclusion**

57. I conclude that the advantages in terms of a significant contribution to the nation’s renewable energy needs are clearly outweighed in this location by the harm that would occur to landscape character and visual amenity. The appeal should be dismissed.

*Paul Jackson*

INSPECTOR
APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Thea Osmund-Smith Of Counsel, instructed by Derbyshire Dales District Council
She called
Michelle Bolger CMLI Dip LA BA PGCE BA Michelle Bolger Expert Landscape Consultancy Ltd
Thomas Shiels BA MA Senior Planner, Peak District National Park Authority
Steve Baker BA MA MCIfA Derby and Derbyshire Development Control Archaeologist, Derbyshire County Council
Jonathan Bradbury MA BSc MRTP Development Manager, Derbyshire Dales District Council

FOR THE APPELLANT:

Jeremy Pike Of Counsel, instructed by Aaron & Partners LLP
He called
Rebecca Rylott MLI BA Landscape Architecture Urban Design Dip Amec Environment & Infrastructure UK Ltd
Charles le Quesne MA MCIfA Principal Cultural Heritage Consultant, ERM
Peter Frampton BSc MRTP MRICS Frampton Town Planning Ltd

INTERESTED PERSONS:

Barbara Allsopp Resident of Ible
Dr Andy Tickle BSc PhD Friends of the Peak District (CPRE)
Dr Peter Owens Resident of Ible
Chris Stait Resident of Hognaston
Robert Wragg Resident of Ible
Chris Sheppard Resident of Grangemill
Nick Bristow Resident of Wirksworth
Mathew Adam-Stiles Resident of Ible
Fred Knight Resident of Parwich
Simon Croxford Resident of Ible
Robert Spencer Resident of Ible
Pat Horrocks Resident of Brassington
Simon Wildash Resident of Carsington
Mike Walsh Resident of Bole Hill
Paul Milan Resident of Wirksworth
Andre Collins Resident of Wirksworth
Barbara Wayne Resident of Ible
Malcolm Kelly Head teacher, Anthony Gell School

DOCUMENTS
1 Statement of Common Ground on landscape and visual impact
2 Submission from Chris Tait
3 ‘Landscape Character Assessment’ Guidance for England and Scotland, submitted by the appellant
4 MB figure 14: CPRE tranquillity mapping superimposed on appellant’s figure 4b
5 MB figure 15: indicating comparative heights of turbine bases, submitted by the Council
6 Letter from English Heritage (now Historic England) dated 3 June 2011 on Viaton turbine planning application
7 Submission from Dr Tickle for Friends of the Peak District
8 Statements of Common Ground on Heritage dated 7, 11, 12 October 2016
9 Reprinted figures from LUC Study on wind resource, areas of restriction and sensitivity, requested by Inspector
10 Statement from Chris Sheppard
11 Statement from Mathew Adlam-Stiles
12 Statement from Nick Bristow
13 Location plans showing heritage assets, submitted by Mr Baker
14 Bundle of letters in support, submitted by the appellant
15 Clarification note from Ms Rylott
16 DECC 2014 Best Practice Guidance on Community Benefits from Onshore Wind Developments, submitted by the appellant
17 Statement from Fred Knight
18 Statement from Mr Wragg
19 Updated site plan dated 19 October 2016 showing correct access tracks
20 Plan of noise monitoring and receptor locations in ES
21 Redacted copy of option agreement setting out means by which decommissioning and restoration would occur; and appellant’s note
22 Response to Inspector’s questions on noise levels at Pearsons Farm
The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act").

The appeal is made by Preserva (Midlands) Limited ("the Appellant") against an Enforcement Notice issued by Derbyshire Dales District Council ("the Council").

The Enforcement Notice, numbered ENF/15/00097, was issued on 10 March 2016.

The breach of planning control as alleged in the Enforcement Notice is the unauthorised construction of timber cabin and subsequent occupation as a dwellinghouse, with associated use of land as domestic curtilage.

The requirements of the Enforcement Notice are: (1) Permanently cease the use of this cabin as a dwelling house. (2) Permanently remove the cabin from this land. (3) Restore the land to its previous condition.

The period for compliance with the requirements is six months.

The appeal is proceeding on the grounds set out in Section 174(2)(d) & (g) of the 1990 Act.

**Summary of Decision**: The appeal is allowed and the Enforcement Notice is quashed.

### Appeal B Ref: APP/P1045/X/16/3148813

**Aragorn Cabin, Mercaston Lane, Mercaston, Ashbourne, DE6 3BL**

- The appeal is made under Section 195 of the 1990 Act against a refusal to grant a Certificate of Lawful Use or Development (LDC).
- The appeal is made by the Appellant against the decision of the Council.
- The application Ref 15/00326/CLEUD, dated 5 May 2015, was refused by notice dated 22 October 2015.
- The application was made under Section 191(1)(a) and 191(1)(b) of the 1990 Act.
- The use and development for which a LDC is sought is the erection of a log cabin and the use of the log cabin as a dwelling house (falling within Use Class C3) and associated change of use of land.

**Summary of Decision**: The appeal is allowed and a LDC is issued in the terms set out below in the Formal Decision.

### Procedural Matters – Appeals A & B

1. The Council agreed that the burden of proof in a case where they allege that there has been positive deception of the Local Planning Authority rests with them. The Council have to prove the positive deception on the balance of probabilities i.e. that it was more likely than not that they were positively deceived.

2. All oral evidence at the Inquiry was given on oath.
3. At the Inquiry the Council agreed that the compliance period should be extended to 12 months (the period suggested by the Appellant). Accordingly, the Ground (g) appeal was resolved by agreement.

4. It was also agreed at the Inquiry that the land identified on the plan attached to the Enforcement Notice included land which fell outside the planning unit formed by the Cabin and its garden. The Council and the Appellant provided separate plans\(^1\) which set out their respective positions regarding the extent of the garden land attached to the Cabin. I will return to the extent of the garden land later in my Appeal Decisions.

Judicial Authorities

5. I was referred to various parts of the following judicial authorities:
   a) Jackson –v- Secretary of State for Communities and Local Government (High Court)\(^2\).
   b) Jackson –v- Secretary of State for Communities and Local Government (Court of Appeal – (Civil Division))\(^3\).
   c) Welwyn Hatfield Borough Council –v- Secretary of State for Communities and Local Government and Another (Supreme Court)\(^4\).
   d) R (Fidler) –v- Secretary of State for Communities and Local Government and Another (Court of Appeal (Civil Division))\(^5\).

Other Appeal Decisions

6. I was also referred by the Appellant to several Appeal Decisions (listed below) relating to possible concealment of unauthorised developments:
   a) 6 Cranbourne Close\(^6\).
   b) 1 Morgan Street\(^7\).
   c) 408 Hackney Road\(^8\).
   d) 37 The Circle\(^9\).
   e) 35 The Circle\(^10\)
   f) 8 Beverley Garden\(^11\)

Relevant Background Matters

7. There are several lakes and/or other areas of water on land near the Cabin. In addition:
   a) The Mercaston Brook runs close by.

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\(^1\) Documents 12 & 13 (respectively)
\(^2\) Document 1
\(^3\) Document 2
\(^4\) Document 3
\(^5\) Document 4
\(^6\) Document 5
\(^7\) Document 6
\(^8\) Document 7
\(^9\) Document 8
\(^10\) Document 9
\(^11\) Document 10
b) There is, in the area, a system of sluices that feed water to the Old Water Mill (now converted to a dwelling-house).

8. In November 1999 planning permission was granted for a building to house fish storage tanks (“the Fish Tanks Building”). The Fish Tanks Building was erected prior to the construction of the Cabin and is within about 75m of the Cabin.

9. The timber cabin (referred to in the Appeal Decisions as “the Cabin”) was erected in about February 2004.

10. The Cabin was erected by Howard Thacker (“Mr Thacker”) to be a dwelling-house for Mark Bradbury.

11. At that time the land on which the Cabin was erected and other adjoining land belonged to Mr Thacker. Mr Thacker:
   a) Owned a considerable amount of land and buildings in the area.
   b) Employed Mark Bradbury, amongst other things, to:
      i) Look after livestock that Mr Thacker kept on land near the Cabin.
      ii) Operate the fishery which was known at that time as the Trent Trout Farm.
      iii) Maintain Mr Thacker’s landholding.
   c) Was familiar with the planning system as evidenced by various applications made before and after the erection of the Cabin. Those applications included new buildings, extensions to existing buildings, and changes of use.
   d) Discussed the best position for the Cabin with Mark Bradbury.
   e) Paid all the electricity bills arising from Mark Bradbury’s use of the Cabin.

12. Mark Bradbury has been in occupation of the Cabin since its completion.

13. Photographs, which include the Cabin, were taken in the spring of 2004 i.e. within a couple of months of the Cabin’s erection. One of the photographs shows that a covered structure had been, or was in the course of being, erected on land close to the Cabin. This structure was to be used as an outdoor sitting area by Mark Bradbury. In addition, a TV aerial had been affixed to the Cabin.

14. Mark Bradbury confirmed at the Inquiry that trees were planted on land near the Cabin before, during and after its construction but the trees were not planted so as to screen the Cabin from public view.

15. In the autumn of 2004 a Charity event was held by Mr Thacker on land near the Cabin. It was clear from my site visit that the Cabin would have been clearly visible from the area where hundreds of visitors gathered to enjoy and participate at the Charity event.

16. In 2009 Mark Bradbury married his wife, Tracey. The wedding was blessed by the local Vicar. The Blessing ceremony was held at the Cabin. Dozens of people attended the Blessing ceremony.

17. Tracey Bradbury moved in to the Cabin in about 2006.
18. From about 2008 a post-box for the Cabin and the Cabin’s name were placed on a post near the junction of the driveway (which leads to the Fish Tanks Building and the Cabin) with Mercaston Lane. In additional, a sign giving the name of the Cabin was placed on the entrance gate to the Cabin.

19. In the late summer early autumn of 2009 David Donnelly (Mr Donnelly) on behalf of the Appellant was in negotiation with Mr Thacker regarding the purchase of land at buildings (including the Cabin). The fishery use of the Fish Tanks Building had ceased. Mr Donnelly was aware that there was no planning permission for the Cabin. However, he took independent legal advice and was advised that four years had passed since the Cabin had been substantially completed and as such the Cabin was immune from any enforcement action that the Council could take. The Appellant’s purchase of the land was completed in early 2010.

20. Mr Donnelly was keen to purchase the land because Mr Thacker has spent a considerable amount of money fencing the various fields and this suited Mr Donnelly who had, and who continues to keep, a pedigree herd of Simmentals. Mr Donnelly continues to show these pedigree cattle at various agricultural shows around the country.

21. I was advised that at the time of the sale of the land to the Appellant Mr Thacker was in financial difficulty.

22. Mark and Tracey Bradbury’s occupation of the Cabin continued following the acquisition of the Cabin by the Appellant. There was, and is, no formal Tenancy Agreement which regulates the residential use of the Cabin by Mark and Tracey Bradbury. No rent was, or is, paid.

23. Mark Bradbury works for the Appellant but due to illness his hours have been reduced to three days per week. Mr Donnelly describes Mark Bradbury as “his eyes and ears” as Mark Bradbury keeps a watchful eye over the Simmentals and other livestock on the Appellant’s landholding. In addition, Mark Bradbury:
   a) Maintains the watercourses and ditches on the Appellant’s land including removing branches and trees which inevitably fall in to those watercourses from time to time.
   b) Maintains the footpaths that pass over the Appellant’s landholding, including maintenance of stiles and the cutting back of vegetation.
   c) Maintains other land which is owned by the Appellant.

24. In 2015 Mr Donnelly became aware that no Council Tax was being paid for the Cabin. Mark Bradbury had assumed that Council Tax had been paid by Mr Thacker and the Appellant thereafter. Mark Bradbury has visited the Council on two occasions to progress the issue of payment of Council Tax in respect of the Cabin but so far the Cabin has not been banded for Council Tax purposes.

Reasons – Appeals A & B

Ground (d) that at the time the Enforcement Notice was issued, it was too late to take enforcement action against the matters stated

25. The Council’s position is that the time limits set out in Section 171B of the 1990 Act do not apply in this case because there has been positive deception of the breach of planning control. If there had not been positive deception of the
breach of planning control then the Council accept that the breach of planning control alleged in the Enforcement Notice would be immune from enforcement action due to passage of time.

26. In this case there is no direct evidence from Mr Thacker (the person responsible for the erection of the Cabin). The Council suggest that the location of the Cabin indicates that it was built in that position so that it would not be seen from the surrounding roads and with a view to deceive the Council as to its existence.

27. I do not accept that. The Cabin was built in its position because it was close to:

   a) The Fish Tanks Building where Mark Bradbury had to carry out some of his employment duties.

   b) The Fish Tanks Building and the lakes which contained valuable fish and thus Mark Bradbury was able to:

      i) Overlook one of the lakes from the Cabin.

      ii) See other lakes etc. within a short walking distance of the Cabin.

      iii) Keep a lookout over the Fish Tanks Building and thus deter poachers or other thieves from stealing the fish or equipment associated with the fish farm business.

   c) Other land owned by Mr Thacker which was used for the keeping of livestock and which Mark Bradbury was responsible for the care of.

28. It is also clear from the evidence of people who lived in the area that:

   a) They were aware that Mark Bradbury had moved from a dwelling in nearby Weston Underwood to live at the Cabin.

   b) That Mark Bradbury had moved to the Cabin so as to fulfil his employment duties with Mr Thacker.

   c) Some of them had seen the Cabin being erected.

   d) Some of them had visited Mark Bradbury at the Cabin.

   e) The Cabin was visible from a number of nearby public rights of way (footpaths) that run close to the Cabin.

29. It is also clear that it would have been possible for Mr Thacker to erect the Cabin on a nearby plot of land which was very well screened and had no public right of way running close to it. If Mr Thacker had wanted to hide the Cabin from all public views the Cabin could have been erected in that location.

30. I am aware that Mr Thacker was aware of the system of planning control as evidenced by various planning applications made on his behalf. However, the Council have no evidence as to why Mr Thacker failed to make an application for the Cabin. I quizzed Mark Bradbury (who had been a party to discussions with Mr Thacker over the location of the Cabin) and he assured me that the location had been one that suited his duties as an employee of Mr Thacker.
Mark Bradbury was not aware that there was no planning permission for the Cabin at the time it was erected.

31. I asked Mark Bradbury why the Cabin had not been built adjacent to the Fish Tanks Building. He explained that this would have impacted on the access to the Fish Tanks Building and thus reduced its usefulness. In any event, even if the Cabin had been built there it would have still been hidden from view from Mercaston Lane.

32. Further, local residents living in the area assured me that on clear days the Cabin can be seen across the valley from public and private vantage points within and near Muggington.

33. I do not accept the argument that the Cabin was designed to look like it may have been a building that was used ancillary to the nearby Fish Tanks Building. It is clear from the photographs that the "sitting out area" was formed very soon after Mark Bradbury went into residential occupation of the Cabin. He also erected a TV aerial so that he could watch TV inside the Cabin. I do not consider that the Cabin was designed to look like a mess room for people working on the land. In my assessment it looked like a timber building that was likely to be used residentially.

34. I am aware that the Cabin is sited on low lying ground and that there were pre-existing tree belts that made the Cabin inconspicuous in the landscape. I am also aware that a number of trees were planted on nearby land but there is no direct evidence that these trees were planted to screen the Cabin from public views. The only evidence before me is that the trees were planted because Mr Thacker was very keen on tree planting generally. It was clear from my site visit that many trees had been planted by Mr Thacker. Many of these trees were planted so as to create tree lined avenues along either side of the public rights of way or private tracks over his land. I was also advised by local residents that Mr Thacker had planted acres of trees nearby.

35. Mark Bradbury explained that:

   a) The trees were not planted to hide the Cabin. They were planted to provide shelter and to improve, in the longer term, the setting of the Cabin.

   b) The trees that were planted were unbranched young tree seedlings of no more than a metre in height.

36. In any event had Mr Thacker wished to hide the cabin from public view he could have erected 2m high fencing adjacent to the nearby public rights of way which would have effectively blocked off all views from those public vantage points.

37. I therefore conclude that the positioning and design of the Cabin and the planting of trees near the Cabin were not acts of positive deception of the Local Planning Authority in matters that are integral to the planning process. These decisions were taken so as to provide Mark Bradbury with a modest utilitarian dwelling in the most logical position given the duties which he, as the occupier of the Cabin, had to perform in connection with his employment by Mr Thacker.
Other Matters

38. I am aware that:
   
a) Mark Bradbury described Mr Thacker as a “likeable rogue” but I suspect that he came to this view after Mr Thacker had left country and gone to live in Thailand leaving behind considerable debts.

   b) Mark Bradbury did not apply to be entered on to the Electoral Register but he explained that he had never voted and had no interest in political matters.

   c) Mr Thacker did not seek Building Regulations Approval for the Cabin. However, there is simply no evidence before me to indicate why that is the case.

39. I do not consider that any of the issues raised by these other matters amount to positive deception of the Local Planning Authority in the planning process.

What is the Extent of the Garden Land Associated with the Cabin?

40. I consider that the land which I have identified on the plan attached to the LDC is, and has been, the garden land connected to the residential use of the Cabin because:

   a) Mark Bradbury has throughout his occupation of the Cabin enjoyed and used this land as his garden.

   b) Mark Bradbury has planted trees (including Christmas trees and fruit trees) and plants within this garden land.

   c) The garden land includes the sitting out area.

   d) The garden land includes the burial plots for pets belong to Mark Bradbury.

   e) There is a domestic greenhouse and garden ornaments on this land.

   f) The grass has been maintained as an informal lawn area.

   g) The land includes the driveway from the gates to the Cabin to the dwelling itself and the associated domestic parking area.

Overall Conclusion – Appeal A

41. For the reasons given above I conclude that the appeal should succeed on ground (d). Accordingly, the Enforcement Notice will be quashed. In these circumstances the appeal under the ground (g) does not need to be considered.

Overall Conclusion – Appeal B

42. For the reasons given above I conclude, on the evidence now available, that the Council’s refusal to grant a LDC in respect of the erection of a log cabin and the use of the log cabin as a dwelling house (falling within Use Class C3) and the associated change of use of land was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under Section 195(2) of the 1990 Act and grant the Appellant a LDC.
**Decision – Appeal A**

43. The appeal is allowed, and the Enforcement Notice is quashed.

**Decision – Appeal B**

44. The appeal is allowed and attached to these Appeal Decisions is a LDC describing the extent of the existing residential use and existing operations which are considered to be lawful.

*Tim Belcher*

*Inspector*
APPEARANCES

FOR THE APPELLANT

Anthony Gill of Counsel
Instructed by Robert McGuinness MRICS of RLM Associates.

He called:

Mr. A. Haddon
Mr C. Hutchinson
Mr D. Bush
Mr D. Dovaston
Mr P. Allen
Mr J. Windebank

David Donnelly – Managing Director of the Appellant Company

Mark Richard Bradbury – Occupier of the Cabin.

FOR DERBYSHIRE DALES DISTRICT COUNCIL

Jack Smyth of Counsel
Instructed by the Council’s Solicitor (Ms Katie Hamill)

He called:

Chris Whitmore BA(Hons), MSc, MRTP – Area Planning Officer

INTERESTED PARTIES

Ms K. Stapley

DOCUMENTS

Document 1 – Jackson –v- Secretary of State for Communities and Local Government (High Court).
Document 2 - Jackson –v- Secretary of State for Communities and Local Government (Court of Appeal – (Civil Division)).
Document 3 - Welwyn Hatfield Borough Council –v- Secretary of State for Communities and Local Government and Another (Supreme Court).
Document 4 - R (Fidler) –v- Secretary of State for Communities and Local Government and Another (Court of Appeal (Civil Division)).
Document 5 - 6 Cranbourne Close – (APP/J0350/C/14/2218487 & 488).
Document 6 - 1 Morgan Street - (APP/G5750/C/14/2222601).
Document 7 - 408 Hackney Road - (APP/E5900/C/14/3000174.).
Document 8 - 37 The Circle (APP/T5150/C/15/3005287).
Document 9 - 35 The Circle (APP/T5150/C/15/3004983).
Document 11 - Western Power Distribution – Vegetation Management –

Document 12 - Appellant’s Summary Notes on Appeal Decisions.

Document 13 - Plan showing extent of the Cabin and its garden as suggested
by the Council.

Document 14 - Plan showing extent of the Cabin’s and its garden as suggested
by the Appellant.
Lawful Development Certificate ("the LDC")

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991) (the "1990 Act")

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 5 May 2015 the operations and the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and cross-hatched in black on the plan attached to the LDC, were lawful within the meaning of Section 191(2) of the 1990 Act, for the following reasons:

The erection of the log cabin and its use as a dwelling-house are lawful because no enforcement action can be taken against these developments because the time for enforcement action has expired.

Signed: **Tim Belcher**

**Inspector**

Date: 21 December 2016

Reference: **APP/P1045/X/16/3148813**

**First Schedule**

The erection of a log cabin and the use of that log cabin as a dwelling-house (falling within Use Class C3) and the associated change of use of land.

**Second Schedule**

Aragorn Cabin, Mercaston Lane, Mercaston, Ashbourne, DE6 3BL
NOTES

The LDC is issued solely for the purpose of Section 191 of the 1990 Act.

It certifies that the use/operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, were not liable to enforcement action, under Section 172 of the 1990 Act, on that date.

The LDC applies only to the extent of the use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations which are materially different from those described, or which relates to any other land may result in a breach of planning control which is liable to enforcement action by the Local Planning Authority.
Plan
This is the plan referred to in the Lawful Development Certificate dated 21 December 2016
by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)
Aragorn Cabin, Mercaston Lane, Mercaston, Ashbourne, DE6 3BL
Reference: APP/ P1045/X/16/3148813 Do Not Scale
Appeal Decision

Site visit made on 29 November 2016

by David Troy  BSc (Hons) MA MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 December 2016

Appeal Ref: APP/P1045/W/16/3157485
Green Lane, Norbury DE6 2EL

- 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 James Morrison against the decision of Derbyshire Dales District Council.
- The application Ref 16/00467/FUL, dated 1 July 2016, was refused by notice dated 19 August 2016.
- The development proposed is Change of Use of agricultural building to dwelling (modifications to previous planning permission 16/00163/FUL).

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the Council’s description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant’s appeal form also makes reference to the updated description. I shall determine the appeal on this basis accordingly.

Main Issue

3. The main issue is the effect of the proposed extension on the east side of the principal barn on the character and appearance of the building.

Reasons

4. The appeal site comprises a traditional two storey brick field barn with tin shed extension linked to a single storey brick pigsty at the side and a single storey lean-to extension at the rear. The building is located in an isolated rural location, set back from the road and accessed via an unmade track from Green Lane. The appeal site is set in attractive countryside, defined by gently undulating fields punctuated by hedgerows and tree boundaries.

5. Planning permission has already been granted for the change of use, extensions, alterations, part demolition and rebuilding works to create a dwelling. However, the proposal now entails the construction of a two storey gable extension that would project out from the east elevation of the main barn measuring about 3m wide by 3.9m in depth and about 5.4m high instead of the single storey lean-to side extension previously proposed. The external finish of the extension would be predominantly constructed from grey zinc and glass.
6. The proposed extension, by virtue of its scale, siting and design, would be a significant addition relative to the main barn and the contemporary appearance and materials used would appear very much at odds with the traditional form and appearance of the building. These shortcomings would be exacerbated by the extension’s prominent position, which would be visible from a number of public vantage points along Green Lane. As such, I consider that the proposed extension would result in an incongruous and out-of-keeping addition that would cause unacceptable harm to the integrity of the original buildings and the character and appearance of the barn and its rural setting.

7. I have considered the appellant’s comments regarding the context provided in the National Planning Policy Framework (the Framework) and the local planning policies for good design and the importance of considering the local character and distinctiveness but I find that the extension does not achieve the standards the Framework and the local policies seek. I also note the appellant’s need for the extension to create a more flexible living space for modern living and long term family use. However, such circumstances are not a material consideration to which I can attach significant weight in making this decision.

8. I have considered the appellant’s comments that the style, form and material used on the extension are intended to reflect the traditional agricultural character of the buildings and complement those more modern materials previously approved. I have also considered the appellant’s comments regarding the unusual nature of the existing buildings with some domestic features and the more innovative approach taken to the renovation of the building. This, however, does not set a precedent for such an inappropriate development in this location. I consider that the contemporary-styled extension would be unrepresentative of the overall traditional agricultural character of the buildings and the redesign and additional height would create an adverse impact on the character of the barn and the surroundings for the reasons set out above. I therefore accord these matters limited weight.

9. Consequently, I conclude that the proposed extension would harm the character and appearance of the building. It conflicts with Policies SF5, H5 and H9 of the Derbyshire Dales Local Plan 2005 and the Council’s Supplementary Planning Guidance on Conversion of Farm Buildings 2005. These policies and guidelines, amongst other things, seek to ensure that the conversion of rural buildings and extensions do not have a detrimental impact upon the character and appearance of the original building; reinforce the sense of place engendered by local building styles and materials; and preserve or enhance the quality and local distinctiveness of its surroundings.

10. In addition, it would not accord with the Framework that development should seek to secure a high quality of design (paragraph 17); that good design is a key aspect of sustainable development (paragraph 56); and should respond to local character (paragraph 58).

Conclusion

11. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy
INSPECTOR
Appeal Decision

Site visit made on 29 November 2016

by David Troy BSc (Hons) MA MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 December 2016

Appeal Ref: APP/P1045/D/16/3157408
17 Belle Vue Road, Ashbourne DE6 1AT

- 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 Alison McHugh against the decision of Derbyshire Dales District Council.
- The application Ref 16/00268/FUL, dated 13 April 2016, was refused by notice dated 13 June 2016.
- The development proposed is lowering the front wall and excavating part of the garden to enable parking for two vehicles and construction of a bike shed and wheely bin store.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on (i) the character and appearance of the Ashbourne Conservation Area (CA) and (ii) highway safety.

Reasons

Character and appearance

3. The appeal site forms part of the garden area at the front of No.17 Belle Vue Road (No.17), a detached two storey dwelling setback from the road with pedestrian access only onto the highway. The appeal site is elevated and the front garden is retained behind a high stone boundary wall. The appeal site falls outside but directly adjoins the CA to the south of the site.

4. The neighbouring properties comprise of a dense mix of two-storey detached and terraced properties. The road in the vicinity of the appeal site is narrow and, due to the close proximity of the high boundary walls and the front elevation of the buildings to the back of the footpath on both sides of the road there is an overall sense of enclosure. Whilst there is some variation in the width of the road created by the access points adjacent to the appeal site, the height of the retaining walls to the northern side of the road at the back of the narrow footpath reinforces the sense of enclosure. These features give the area a strong unifying character and appearance that are recognised as one of the key characteristics of this part of the CA in the Ashbourne Conservation Area Appraisal 2008 (CAA).
5. The proposal would involve the formation of a new vehicular access and excavation work to create two off-street parking spaces with a new brick retaining wall and a bike and bin store. It involves the removal of about 7m of the existing stone boundary wall and the construction of a low stone wall with an integral pair of remote controlled gates along the front of the site.

6. The removal of the high boundary wall would create an uncharacteristic gap in the generally enclosed frontage. Such positioning would compromise the sense of enclosure in the area. These shortcomings would be exacerbated by the proposal’s prominent position, which would be visible from a number of public vantage points along Belle Vue Road. As such, I consider the proposal, by virtue of its siting and design, would result in an incongruous and out-of-keeping addition that would adversely harm the character and appearance of the CA.

7. Given the modest scale of the development, the harm to the CA is less than substantial but in accordance with paragraph 134 of the National Planning Policy Framework (the Framework), that harm should be weighed against any public benefits to the proposal. I note the appellant’s comments regarding the benefits arising from tidying up the area, improving the visibility for traffic and pedestrians leaving the site and the adjacent business units and helping to address the local traffic flows and parking issues in a congested part of the town. I find though insufficient public benefits to offset the identified harm to which I attach significant weight.

8. I have considered the appellant’s comments regarding the appeal site being located outside the CA on a wider section of the road and the design of the parking scheme being sensitive to the character of the area. However, I consider this would not outweigh the adverse harm outlined above. I have considered the appellant’s comments about the family’s personal circumstances and the benefits to the family arising from the proposed parking area. However, such circumstances are not a material consideration to which I can attach significant weight in making this decision.

9. I have noted the appeal decision dismissed at No. 15 Belle Vue Road \(^1\) pointed out by the appellant. However, whilst this has similar characteristics to the appeal scheme, it took place some time ago in a different policy context. I have further noted the other developments in the area drawn to my attention by the appellant. The developments along Belle Vue Road, Union Street and Green Road are not directly comparable to the appeal scheme and have different development and locational characteristics. On the basis of the limited evidence provided I am not convinced that their circumstances are compellingly similar to the appeal proposal. I therefore accord them limited weight as precedents in this case.

10. Consequently, I conclude that the development would harm the character and appearance of the CA. It would conflict with the design and conservation aims of Policy NBE21 of the Derbyshire Dales Local Plan 2005 (LP) and the CAA as set out above. These policies and guidelines, amongst other things, seek to ensure that development proposals within or adjacent to a CA protect or enhance the character or appearance of the area.

\(^1\) APP/P1045/A/04/1168464
11. In addition, it would not accord with the Framework that development should seek to secure a high quality of design and conserve heritage assets in an appropriate manner (paragraph 17) and take into account the desirability of making a positive contribution to local character and distinctiveness in conserving and enhancing the historic environment (paragraph 131).

Highway safety

12. The new vehicular access and parking area is located off a narrow section of Belle Vue Road where a 30 mph speed limit applies. There are double yellow lines in front of the properties along both sides of the two-way section of the road and a traffic calming speed hump immediately adjacent to the appeal site.

13. For this class of road and speed limit, the Derbyshire County Council Local Highway Authority (LHA) recommends a suitable exit visibility splay that would require sightlines across third party land in both directions that would need to be secured in perpetuity with the relevant landowners. In addition, any fronting walls, gates and gate posts would need to be no higher than 1.05m in height within 2.4m of the carriageway edge. The LHA have objected as the proposal does not meet the requirements for the visibility splay and does not have adequate turning provision within the site.

14. The appellant, however, has questioned the visibility and the turning area requirements, in light of the existing access arrangements provided at adjacent properties. However, these accesses are either set back from the back edge of the carriageway allowing vehicles to move clear of the highway, or appear to have been provided some time ago when different standards applied. Nevertheless, I acknowledge that the LHA advice is only guidance to assess more objectively the impact of the proposed development on highway safety.

15. Paragraph 32 of the Framework states that decisions should only be prevented or refused on transport grounds where the residual impacts of development are severe. In view of the scale of development, it is evident that the impact of the development on highway efficiency would not be severe. However, paragraphs 32 and 35 of the Framework go on to state that decisions should also take into account whether safe and suitable access to the site can be achieved for all people.

16. From the evidence provided and from my observations on site, I consider that this section of Belle Vue Road is neither safe nor suitable to safely cater for the traffic movements from the proposal, due to the current road conditions, the configuration of the site and the restricted visibility from the proposed access caused by an existing boundary wall on third party land to the east of the site. The access arrangements would result in vehicles reversing into and out of the site at a point where the road width and the emerging visibility are severely restricted and as such would have an adverse effect on highway safety.

17. I have considered the appellant’s comments regarding the design of the parking scheme addressing the issues raised in the pre-application advice of the LHA and the lower traffic speeds outside the appeal site due to the traffic calming measures. The Council, however, are not bound by the officer’s and LHA pre-application advice in making their final decision and these factors do not overcome the adverse effects outlined above.
18. Consequently, I conclude that the proposal would have an adverse effect on highway safety. It would conflict with policy TR1 of the LP which seeks to ensure development would be served by safe access with appropriate visibility. In addition, it would not accord with paragraphs 32 and 35 of the Framework, which seeks to ensure that a safe and suitable access to the site can be provided for all people and that a safe and secure layout can be achieved which minimises the conflicts between traffic and cyclists or pedestrians.

Other matters

19. I have noted the support for the proposal from a local resident on the basis of the benefits to the parking, traffic and improved visibility in front of the properties. However, these matters are addressed above.

20. I have also noted the objections from the Town Council and the Conservation Advisory Forum to the proposal. However, in light of my findings of harm to the character and appearance of the CA and highway safety, there is no necessity for me to consider these matters further.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

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.