6 January 2014
To: All Councillors

As a Member or Substitute of the Central and Northern Area Planning Committee, please treat this as your summons to attend a meeting on Tuesday 14 January 2014 at 6.00pm in the Council Chamber, County Hall, Matlock.

Yours sincerely

Sandra Lamb
Head of Democratic Services

AGENDA

SITE VISITS  The Committee is advised that the coach will leave the Town Hall, Matlock at 1.15pm prompt. A schedule detailing the sites to be visited is attached to the Agenda.

1.  APOLOGIES/SUBSTITUTES

   Please advise Democratic Services 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

   5 November 2013

3.  INTERESTS

   Members 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 Member 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.

Issued 6 January 2014
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 their views, ask questions or submit petitions relating to the planning application under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed.

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<td>Retention of boundary fence at 1 Crook Stile, Matlock.</td>
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<td>Retention of development without compliance with Condition 3 of planning permission WED/1184/0761 (agricultural occupancy restriction) at Ameycroft Farm, Farley.</td>
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<td>Residential development (outline) at land off Moorcroft, Chesterfield Road, Matlock.</td>
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<td>Single storey extension and raising of ridge height to link above archway at 1 Millfield Court, Matlock.</td>
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<td>Change of use of land to use for siting of 9 No. holiday lodges (chalets) at The Woodyard, Homesford.</td>
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5. TREES PROGRESS REPORT – DDDC APPLICATIONS

To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders.

6. TREES PROGRESS REPORT – DCC APPLICATIONS

To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders.

7. APPEALS PROGRESS REPORT

To note a report on appeals to the Planning Inspectorate.

Issued 6 January 2014
Members of the Committee
Councillors David Burton, Robert Cartwright, Mrs Ann Elliot, David Fearn, Neil Horton, Mike Longden, Jean Monks, Garry Purdy, Lewis Rose OBE, Peter Slack, Andrew Stattham, Geoff Stevens MBE, Mrs Jacque Stevens, Mrs Philippa Tilbrook, Barrie Tipping, Mrs Carol Walker, Ms Jo Wild

Substitute Members
Councillors Richard Bright, Mrs Sue Burfoot, Albert Catt, Richard Fitzherbert, Steve Flitter, Chris Furness, Cate Hunt, Mike Ratcliffe, Colin Swindell, Mrs Judith Twigg

SITE VISITS
Members will leave the Town Hall, Matlock at 1.15pm prompt for the following site visits:

1.20pm Application No. 13/00816/FUL
1 Crook Stile, Matlock
Requested by Officers to assess the impact of the fence on the amenity of the streetscene.

1.45pm Application No. 13/00768/VCOND
Ameycroft Farm, Farley, Matlock
Requested by Officers to assess the need for the retention of the agricultural worker’s occupancy tie.

2.15pm Application No. 13/00800/OUT
Moorcroft, Chesterfield Road, Matlock
Requested by Ward members to assess the impact of the proposed development on the open countryside, the amenity of neighbours and highway matters.

2.45pm Application No. 13/00771/FUL
1 Millfield Court, Matlock
Requested by Ward Member to assess the impact of the proposed development upon the amenity of neighbours and the character and appearance of the Lumsdale Conservation Area.

3.15pm Application No. 13/00838/FUL
The Woodyard, Homesford
Requested by Ward Members to assess the impact of the development on the character and appearance of the open countryside and Derwent Valley Mills World Heritage Site and highway matters.

4.00pm Return to Town Hall

Issued 6 January 2014
COMMITTEE SITE MEETINGS PROCEDURES

You have been invited to attend a site meeting of the Council’s Planning Committee/Advisory Committee. The purpose of the 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.

Issued 6 January 2014
13/00816/FUL
1 Crook Stile, Matlock

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Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN. Telephone: (01629) 761100. Website: www.derbyshiredales.gov.uk
THE SITE AND SURROUNDINGS:
The application property is an old, detached, stone-built house, situated in a residential area on the north-western side of Matlock. It occupies a corner plot at the junction of Hurds Hollow and Crook Stile, opposite All Saints Junior School.

THE APPLICATION:
This is a retrospective Planning Application for the retention of a recently erected boundary fence. It runs a distance of 26m along the pavement boundary of Crook Stile. It has a uniform appearance with a vertically-boarded design, but has been painted a light brown/orange colour. Its height varies from 1.5m at its western end, to 1.8m at its highest point to the east.

RELEVANT HISTORY:
13/00114/FUL Single / two-storey rear extensions and alterations to existing conservatory. Granted

CONSULTATIONS:
Local Highway Authority:
No objection.

Town Council:
Not received.

REPRESENTATIONS:
None received.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF5 Design And Appearance Of Development

National Planning Policy Framework (NPPF)
Chapter 7 – Requiring good design

Derbyshire Dales Local Plan Pre Submission Draft June 2013
Development Management Policy 9 – Design and Appearance Of Development

ISSUES:
The main issue to assess is the visual appearance that the unauthorised fence has on the amenity of the streetscene.
Prior to the fence being erected, the boundary along Crook Stile was enclosed with plants and soft landscaping. The current, unauthorised, boundary fence provides a stark contrast with its hard landscaping, right up to the boundary. Its design and colour finish draw the eye. The bright colour makes it appear more prominent in the streetscene and whilst painting it a darker colour could lessen its impact, nevertheless, it is still considered to appear as an incongruous and dominant boundary enclosure that has a detrimental impact on the amenity of the streetscene.

Whilst it is noted that boundary enclosures in the area are not uniform and there are other examples of roadside boundary fences in the area, their impact is considered to be less harmful than the fence which is the subject of the current retrospective planning application. They do not appear as prominent and cover less of an area.

The unauthorised fence conflicts 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 and land uses.

Whilst the applicants desire to create some privacy for their garden is understandable, on balance, the harm caused to the character and appearance of the locality is significant and warrants a recommendation of refusal.

OFFICER RECOMMENDATION:
Planning Permission be refused for the following reasons:

The height, length and design of the fence are such that it appears as a prominent and incongruous addition to the streetscene which has a detrimental impact on the visual amenity of the locality and the local sense of place. As such, the proposal is in conflict with Policy SF5 of the Adopted Derbyshire Dales Local Plan (2005).

Note to applicant:

This Decision Notice relates to the following documents:
Drawing numbered PA/12-016 SK 81 101, received by the Council on 26th November 2013.
THE SITE AND SURROUNDINGS:
Ameycroft Farm is situated in the open countryside to the north-west of Matlock. It occupies a triangular piece of land at the junction of Farley Hill with Bowler Lane. The farmhouse is a stone-built, ‘L’ shaped building which has recently been extended with an unauthorised, two storey extension towards Farley Hill. The dwellinghouse was originally built in the mid-1980s with an agricultural occupancy tie. A range of former chicken sheds are located to the south of the dwellinghouse. These buildings and associated land are tied to the dwellinghouse through a legal agreement.

THE APPLICATION:
A variation of Condition 3 of outline planning permission WED/1184/0761 is sought in order to remove the agricultural worker’s occupancy tie attached to the dwellinghouse. The condition states:

3. The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed (prior to retirement), in the locality in agriculture as defined in Section 290 (1) of the Town and Country Planning Act 1971 (including any dependants of such a person residing with him) or a widow or widower of such a person.

This condition was repeated as Condition 3 of the approval of reserved matters (ref: WED/0385/0209).

The applicant has submitted a supporting statement. This advises that the applicant has placed the farm on the open market for a very lengthy period at a price reflecting the agricultural occupancy condition. In this respect, a letter has been submitted by Saxton Mee (estate agents) which advises that the property has been marketed since July 2011 with an asking price of just under £995,000 and subsequently reduced in September 2011 to £925,000. It is considered that an unfettered asking price would be some £1.1m to £1.2m and the discount applied was some 30%. It is advised through feedback from enquiries, that given the exceptionally restricted tie, the dilapidated nature of the farm buildings and the small acreage of the holding, that the farm is not a financially viable proposition.

The applicant states this had not been made known to the Planning Inspector and believes, had this been the case, the Inspector would have reached a different conclusion with regard to the usefulness of the occupancy tie.
The applicant states that the property cannot be sold whilst the restriction on occupancy remains given that there is insufficient land associated to create a viable agricultural business and because no other person who can comply with the condition has shown an interest. The applicant advises that the person he purchased the property off was not wholly or mainly employed in agriculture. The applicant’s view is that it is unsustainable to enforce the condition and the legal agreement and render the property uninhabitable.

The applicant has advised that he is willing to enter into a unilateral undertaking to make a contribution of £33,000 towards affordable housing in lieu of lifting the occupancy requirements.

The applicant also advises that, in lifting the occupancy restriction, there would no longer be a basis for the refusal of the unauthorised extension to the dwellinghouse. The applicant considers the appearance of the extension has been carefully considered and that they have gone to great cost to ensure that it does not detract from the general character and appearance of the original farmhouse and is not overbearing in any way or causes harm to the open countryside. The applicant advises that the extension is designed to achieve modern living standards for a growing family and that the extension has been considered against what would otherwise be permitted development; the applicant considers the extensions amounts to some 13% increase in the size of the original dwellinghouse.

RELEVANT HISTORY:
10/00007/FUL Two-storey side extensions – Refused – Appeal APP/P1045/C/12/2183502 and Appeal APP/P1045/C/12/2183503 Dismissed
ENF/10/0006 Residential occupation of Ameycroft as a dwelling contrary to the terms of Condition 3 of planning permission WED/1184/0761 – Appeal APP/P1045/C/10/2135465 –Dismissed but period for compliance amended to 9 months
09/00532/FUL Two-storey side extensions - Refused
0385/0209 Approval of reserved matters - dwelling and garage (Outline WED/1184/0761)
WED/1184/0761 Dwelling to serve intensive poultry unit (outline) – Granted subject to agricultural worker’s occupancy condition and a legal agreement tying dwellinghouse to the holding and to the occupancy condition

CONSULTATIONS:
Town Council – Object - Breach of Condition 3
Local Highway Authority - No objection

REPRESENTATIONS:
One letter of representation from co-owner of the adjacent Bent Farm, the comments of which are summarised as follows:
- have been in discussion with applicant for the sale of Bent Farm to him - sale was agreed around May
- applicant pulled out of sale in October citing the price being too high as was relying on a price well below £700,000 – figures for his own property suggest a very different scale or process of valuation
- principal point is that it sometimes seems fair to lift a restriction but would not seem fair when relatively little time has passed since an individual benefitted from buying
a property with a restriction, then flouted planning regulations in developing the property and then persisted in efforts to avoid enforcement measures.

POLICIES:
1. Adopted Local Plan (2005)
   SF4 Development in the Countryside
   SF5 Design and Appearance of Development
   H2 Extensions to Dwellings
   H4 Housing Development outside Settlement Frameworks
   H12 Alternative Provision for Affordable Housing outside Settlement Frameworks

2. Pre-submission Draft Local Plan (2013)
   Development Management Policy 2 - Development in the Countryside
   Development Management Policy 3 - Agricultural and Rural Workers Dwellings
   Development Management Policy 9 - Design and Appearance of Development

3. National Planning Policy Framework

4. Supplementary Planning Guidance
   Affordable Housing – Supplementary Planning Document (July 2006)

ISSUES:
1. Introduction
   Before considering the merits of this application, there is a need to set out the background to this application to seek to remove the agricultural worker’s occupancy tie and to set out the relevant planning policy considerations.

2. Background
   Ameycroft was purchased by the applicant in 2009 but he has been unable to demonstrate compliance with the agricultural occupancy tie. The applicant was therefore notified that he would have to vacate the premises and enforcement proceedings ensued. The applicant appealed the enforcement notice but this was dismissed by the Planning Inspector; the applicant was required in the decision to vacate the property within 9 months of the date of the decision in July 2011. The applicant is therefore in breach of the terms of the enforcement notice and open to prosecution in this respect.

   The purpose of an agricultural occupancy tie is in order to make the farmhouse available for agricultural workers, and this should also be reflected in the size and value of the property. Notwithstanding the above, the applicant has also erected an unauthorised extension to the dwelling. Contrary to the view of the applicant, the extension has substantially increased the size of the farmhouse.

   The applicant sought retrospective planning permission for the extension. This was refused by the District Council and the extension was largely in its completed form when the Appeal was considered by the appointed Planning Inspector. The conclusion of the Planning Inspector was that there was no agricultural justification for the extension and that the extension was harmful to the character and appearance of the dwelling and to the countryside within which it is set. In terms of the enforcement, the Planning Inspector concluded that the appropriate steps were to remove the extension and reinstate the land and buildings to their former condition. The applicant is now required to demolish the extension within 6 months of the Planning Inspector’s decision on 16th July 2013 (i.e. by 16th January 2014).
3. Policy Context

Paragraph 215 of the NPPF advises that beyond the end of March 2013, due weight should still be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given). Paragraph 14 advises that for decision taking, this means approving development where the development plan is absent, silent or relevant policies are out-of-date unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Central to the consideration of this application is whether the relevant policies of the adopted Derbyshire Dales Local Plan are up-to-date. In this context, the relevant policies are Policies SF4 and H4 of the adopted Local Plan. Policy SF4 establishes that all land outside the defined Settlement Framework boundaries is defined as open countryside for the purposes of planning policy. The policy states that development will only be permitted in the open countryside, amongst other criteria, if it is required to serve the essential requirements of agriculture.

Policy H4 reflects this criterion and states that planning permission will only be granted for housing that is essential for the operation of agriculture, forestry or other enterprise (that needs to be in that location) or consists of affordable housing for an identified local need. In this respect and, in the context of this application, Policies SF4 and H4 of the adopted Local Plan are considered consistent with Paragraph 55 of the NPPF which advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as, amongst other criteria, there being an essential need for a rural worker to live permanently at or near their place of work.

Paragraph 216 of the Framework also allows decision-takers to give weight to relevant policies in emerging plans according to:-

- The stage of preparation (the more advanced the more weight)
- The extent to which there are unresolved objections (the less significant the unresolved objections the greater the weight)
- The degree of consistency of relevant policies in the emerging plan to policies in the framework the greater the weight.

In this respect, Development Management Policy 3 seeks to address the relevance of agricultural occupancy ties on dwellinghouses in the open countryside and recognises that lifting an occupancy tie removes a form of affordable housing for the agricultural community. Development Management Policy 3 states that applications for the removal of restrictive occupancy conditions will only be granted where it can be demonstrated that:

a. the restriction has outlived its original planning purpose; and
b. there is no reasonable prospect of the dwelling being occupied by an agricultural or other rural based worker as demonstrated by a comprehensive marketing exercise which reflects the nature of the occupancy restriction.

The policy adds that:

In circumstances where an occupancy restriction is removed, and the dwelling is not to be made available be meet a proven need for affordable housing, the District Council will
seek to secure a financial contribution towards the provision of affordable housing elsewhere in the Plan area.

However, the emerging Local Plan is in its relative infancy and there are objections to Development Management Policy 3 with regard to affordable housing contributions in lieu of lifting an occupancy tie. In this regard, it can only be given limited weight in the consideration of this application.

4. Assessment
The original requirement for the dwellinghouse was based on an essential need based on the operation of the holding and is the reason for its approval and the reason for the occupancy restriction; this is in accordance with Polices SF4 and H4 of the adopted Local Plan. In this respect, given the special circumstances of approving such a dwellinghouse, the reasons for it to no longer be subject to such a restriction need to be fully established.

The applicant has proposed to make a financial contribution to affordable housing in lieu of lifting the tie, as reflected in Development Management Policy 3 in emerging Local Plan, and the provision of affordable housing is an important material consideration for local planning authorities. Nonetheless, notwithstanding that Development Management Policy 3 is subject to challenge, and hence the limited weight that can be attributed to this Policy, the lifting of the occupancy tie can only occur in the context of this emerging Plan Policy where it can be demonstrated that the agricultural occupancy restriction has outlived its usefulness; this has not been demonstrated.

Given the limited weight attached to Development Management Policy 3, it is considered that the application needs to be principally determined in accordance with the saved policies of the adopted Local Plan and government Policy contained in the NPPF. Whilst the re-use of the dwellinghouse would be sustainable, it would nevertheless be less sustainable as an open market dwellinghouse. Such an unfettered dwellinghouse would be more likely to be for persons who may work some distance from the property, thus being more heavily reliant on the car, rather than as an agricultural workers dwelling where the occupant would be far more likely to be working in the local area.

The applicant’s estate agent valued the farm in 2011 at between £1.1m and £1.2m (even without the extensions to the dwellinghouse). The farm was therefore offered with an asking price of £995,000 (later reduced to £925,000) which the estate agent considers includes a 30% discount on the value of the property based on the legal tie on the dwellinghouse to the farm. The estate agent has advised of little interest given the modest size of the farm and the dilapidated condition of the agricultural buildings.

However, in the event that the holding could not be marketed effectively, efforts could have been made to seek to separate the dwellinghouse from the landholding, and thus make the dwellinghouse potentially affordable to agricultural workers; this does not appear to have been explored. Therefore, the applicant has not clearly demonstrated that there is no requirement for the dwellinghouse, in its original approved form without the unauthorised extensions, to serve the needs of a worker in the local rural economy, or someone who has retired from agriculture.

5. Conclusion
This application presents a difficult set of planning circumstances. The dwelling was constructed to serve an agricultural business which has now ceased and, given the limited size of the holding, would be difficult to re-establish in a manner that would finance the
property. Notwithstanding this, when agricultural dwellings no longer serve an agricultural business on site, they provide a pool of agriculturally tied, and affordable, housing for the wider agricultural community, including retired farmers. Before contemplating the removal of such a tie, the Local Planning Authority needs to be satisfied that the dwelling has been properly marketed, at an appropriate price, to target any demand for continued use, in accordance with the tie.

Whilst such an exercise might ultimately demonstrate a lack of demand, the exercise should be a genuine one so as to not encourage abuse and lead to a loss of housing stock for the agricultural community. Although the applicant has submitted a supporting letter from Saxton Mee estate agents, it is considered that this does not amount to proper evidence of genuine marketing of the property to the agricultural community, at an appropriately discounted price, or justification for not carrying out such an exercise.

Whilst the issue is relatively finely balanced, and the provision of a financial sum to provide for affordable housing elsewhere would draw a line under this enforcement matter, it is considered important to be seen to be consistent in requiring genuine evidence of the proper marketing of such dwellings, and/or an assessment of demand, prior to contemplating releasing occupancy ties. As such, lifting the occupancy condition is considered contrary to government policy as set out in paragraph 55 of the NPPF and at odds with Policies SF4 and H4 of the adopted Local Plan (2005) with regard to the types of dwellinghouse that may be allowed within open countryside locations outside of Settlement Framework boundaries. Given the above, it is recommended that the variation of condition be refused.

OFFICER RECOMMENDATION:
That permission to vary condition 3 of outline planning permission WED/1184/0761 be refused for the following reason:

1. Given the inadequacy of the marketing exercise for this dwellinghouse, the applicant has failed to demonstrate that the agricultural occupancy restriction has outlived its usefulness and that the dwelling if appropriately priced and marketed could not serve the needs of the wider agricultural community, in accordance with the advice at Paragraph 55 of the National Planning Policy Framework (March 2012).

NOTES TO APPLICANT:
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.

This decision notice relates to the following documents:

Supporting Statement received on 31st October 2013
Letter from Saxton Mee received on 31st October 2013
Copy of Section 52 Legal Agreement dated 2nd May 1985 received on 31st October 2013
13/00800/OUT
Land off Moorcroft, Chesterfield Road, Matlock

Scale: 1:2500
13/00800/OUT RESIDENTIAL DEVELOPMENT (OUTLINE) AT LAND OFF MOORCROFT, CHESTERFIELD ROAD, MATLOCK FOR MR. D. SCOTHORNE

Town Council: Matlock  
Application type: Outline  
Date of receipt: 19.11.13  
Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:
The site comprises two agricultural fields of some 0.1ha at the north western end of Moorcroft which, itself, is a small residential development just off Chesterfield Road on the northern edge of Matlock. The site is outside of the Settlement Framework boundary for Matlock.

The site is within the Settled Valley Pastures landscape type of the Dark Peak landscape character area. The fields in question are regular in shape and are situated on sloping ground that falls from heavily wooded high ground in the north west to the Chesterfield Road in the south east. They are contained on the south western and south eastern sides by existing residential development. On the north eastern side there is a belt of mature trees (mainly beech with some sycamore and oak) which extends beyond the line of the site boundary and wraps part way round the north western edge. All these trees are protected under a Derbyshire County Council Tree Preservation Order.

Other trees, which are similarly protected, are the mature lime tree contained within a remnant field boundary hedge that separates the fields, and a group of trees on the south western side, which is largely contained within neighbouring private gardens. Additional groups of trees extend along much of the north western boundary. The boundary with existing development at Moorcroft comprises a mix of garden fences, hedges and other planting. The site is overlooked from Sandy Lane which extends onto and traverses higher ground to the west. The lane provides access to Sandy Lane Farm and is a public right of way.

THE APPLICATION:
Outline planning permission is sought for the residential development of a field with 25 dwellinghouses. The applicant has submitted the application with all matters reserved except for access to the site, which is proposed off the turning head to Moorcroft. The applicant advises that the field was used for storing building materials during construction of the adjoining residential development at Moorcroft and that he considers the land to be no longer suitable for agricultural use and has become overgrown having been disused for many years.

The applicant considers the site to be a sustainable location within reasonable walking distance of the town’s extensive community facilities. The applicant acknowledges that the site lies on the edge of the Settlement Framework boundary for Matlock but has previously been considered as a possible site for allocation in the revised Local Plan consultation on housing allocation sites. The applicant also considers that there is a current difficulty in the provision of a 5 year housing supply (plus 5%) and that the site will provide a readily developable site to address the shortfall.
The applicant advises that this planning application has been submitted in the hope that permission will be granted and that the current appeal with respect to planning application 12/00733/OUT could then be withdrawn. This is proposed given the recent Appeal decision with respect to Willow Meadow Farm (Planning Inspectorate ref: APP/P1045/A/13/2195546, DDDC ref: 12/00774/OUT) allowing for residential development adjacent to the Settlement Framework boundary of Ashbourne. The applicant considers the following matters were acknowledged by the District Council:

- there was a shortfall in the five year housing land supply;
- the Local Plan is out of date in regard to development outside the Settlement Framework boundary;
- the Local Plan Policies SF4, H4 and NBE8 are not consistent with the National Planning Policy Framework (NPPF) and the Planning Inspector’s conclusion that they can thus be afforded no weight; and
- the Inspector’s conclusion that the site is outside the Settlement Framework boundary is not necessarily unsustainable.

The applicant considers the latter point is of great significance as the District Council’s appeal case with regard to the previous planning application at Moorcroft (12/00733/OUT), relied entirely on the site being unsustainable due to its location outside the Settlement Framework boundary. This was despite the fact that the site to the north of Bentley Brook is in the applicants view, in an unquestionably less sustainable location outside the Settlement Framework boundary but which has been granted permission.

The applicant also considers that there is an important development in that the District Council has conceded the necessity to re-examine its strategic housing land requirement, that there is virtual certainty that more housing land must be allocated and that the Moorcroft site was ranked as the highest priority site for housing in the Officer’s report to the Local Plan Advisory Committee.

An indicative layout drawing has been submitted detailing twenty five dwellinghouses being proposed on the site. Ten of the units are proposed to be affordable dwellinghouses provided by a Registered Social Landlord and fifteen are proposed to be two storey, 4 bed roomed, detached open market dwellinghouses. The applicant has therefore proposed to provide 40% of the development as affordable housing, but would be prepared to consider a split provision, as agreed with the Bentley Bridge site, of 25% on-site provision and 20% off-site contribution.

The applicant advises that the indicative layout has been formulated to take account of the following considerations:

- the need to ensure traffic safety by providing an adequate internal road and footpath network
- the need to safeguard the privacy and outlook of existing dwellings
- the need to create a pleasing group of buildings
- the need to create a pleasant living environment
- the need to retain the existing trees
- the desire to make effective use of the site

The open market dwellinghouses would be detached, two storey, four bedroomed units and constructed with natural stone with blue slate roofing. They would each incorporate a double garage or garage space with two additional car parking spaces. The affordable
dwellinghouses are proposed to have a terraced form. No details have been submitted of the proposed materials. Each of the affordable dwellinghouses would have one car parking space within a parking court. Access to the dwellinghouses would be via the Moorcroft cul-de-sac.

The applicant advises that the ground floor accommodation will be accessible to persons with restricted mobility and will have space for disabled parking. It is also proposed that high standards of energy efficiency would be achieved throughout the scheme.

The applicant has submitted a Tree Survey (July 2011) and acknowledges that there are several mature trees around the site. However, it is considered that some of these are in poor condition. The Tree Survey advises that very few of the Beech trees are suitable for retention in, or close to, a housing development because of their poor condition. Several trees are identified on adjacent land and it is considered that there is a need for sufficient space to be provided to allow them to grow without causing nuisance to the occupiers of any proposed dwellinghouses. The applicant considers that the indicative layout of the proposed development can be undertaken whilst retaining all of the healthy mature and semi-mature trees on the site. Some new tree planting has been identified on the indicative layout plan.

The applicant has submitted an ecological survey (August 2011) and the applicant considers that there will be no adverse impact on protected flora or wildlife habitat.

RELEVANT HISTORY:
12/00733/OUT Residential development (outline) – Refused – Appeal in Progress
11/00742/OUT Residential Development (Outline) – Refused – Appeal Dismissed
11/00425/OUT Residential Development (Outline) - Withdrawn

CONSULTATIONS:
Town Council – Object:
- building on greenbelt
- development is not in the settlement framework boundary
- overdevelopment of the site - number properties on this site is deemed to be far too excessive and will not be in keeping with properties already there
- several letters of representation have been received and it is understood that Derbyshire Dales District Council have copies - all their points are relevant and should be taken into consideration.

Local Highway Authority – No objection subject to conditions.

Natural England – No objection:
- LPA to refer to standing advice
- request biodiversity and landscape enhancements

Development Control Archaeologist – Comment:
- are no records of archaeologically significant finds or features within the site
- a findspot of a polished stone axehead at Gritstone Road, just to the south (HER 10065), suggests some background potential for prehistoric activity in the vicinity but consider, on balance, that because of the relatively small size of the site, there is insufficient archaeological potential to justify placing an archaeological requirement upon the applicant.
**REPRESENTATIONS:**
- A total of nine letters of representation from neighbours. The comments can be summarised as follows:
  - in outline and full nature of the use unclear
  - large scale residential development out of keeping with the layout of the existing estate
  - will change character of neighbourhood significantly - over development.
  - density seems led by commercial considerations and personal return
  - high negative visual impact - will further erode greenfield agricultural land adjacent to open countryside
  - another large scale development outside the agreement zones for settlement earmarked in the recent local plan - runs strongly counter to final agreement reached following lengthy and expensive consultation process
  - must be sufficient priority 1 or 2 potential development sites that should be considered first – application site is a low priority site (level 3)
  - amount of alternative sites recently added in Matlock will meet any under-provision
  - risks further extension of the Matlock boundary
  - housing supply can be met within the allocated sites agreed and by taking into account other pockets of land on offer within the existing settlement boundary
  - claim of under-provision is not large enough to need to overturn agreed strategic development schedule
  - declared intention of all councillors that brownfield development should precede further loss of rural land
  - no good reason to support development on greenfield land until there is a transparent and demonstrable significant shortfall in the housing supply
  - unjustified and unsustainable development in terms of existing utilities and facilities
  - will exacerbate access difficulties especially at peak travel times
  - highway safety issues getting in and out of the cul de sac
  - inadequate visibility splays and Moorcroft development limited to 8 houses
  - Moorcroft regularly hindered at the point of entry by vehicular and other barriers
  - impact on safety of children who play in cul-de-sac
  - inadequate car parking provision
  - existing access of Moorcroft is narrow and would cause bottleneck leading to noise and pollution to residents
  - loss of character, privacy, visual aesthetics, the range of amenities and neighbourly harmonisation
  - increased noise and disturbance during construction and afterwards
  - number of active springs on site and a culvert was identified in planning permission for Moorcroft – increased likelihood of flooding to existing properties
  - vital that assessment undertaken to ensure mains sewer has capacity for surface and foul water drainage
  - abundance of wildlife which should be protected
  - no assessment on impact on bats
  - proximity of development to protected trees
  - any erected dwellings will have to be equal in final price or the result will be an imbalanced arrangement between types of dwellings
  - social houses seem out of character with existing area
  - will spoil view from popular walk along Sandy Lane
  - dispute that land could be not used for agriculture
  - building rubble near access gate to make site appear run down
  - repeated barrage of replica applications tantamount to harassment
POLICIES:

1. Adopted Local Plan (2005)
   SF4 Development in the Countryside
   SF5 Design and Appearance of Development
   H4 Housing Development Outside Settlement Frameworks
   H9 Design and Appearance of New Housing
   NBE5 Development Affecting Species Protected by Law or are Nationally Rare
   NBE6 Trees and Woodlands
   NBE8 Landscape Character
   NBE12 Foul Sewage
   NBE26 Landscape Design in Association with New Development
   NBE27 Crime Prevention
   L6 Outdoor Playing Space in New Housing Developments
   TR1 Access Requirements and the Impact of New Development
   TR8 Parking Requirements for New Development

2. Pre-submission Draft Local Plan
   Strategic Policy 1 - Sustainable Development Principles
   Strategic Policy 3 - Protecting and Enhancing the Natural and Historic Environment
   Strategic Policy 8 - Strategic Housing Development
   Strategic Policy 10 - Open Space and Outdoor Recreation Facilities
   Strategic Policy 11- Accessibility
   Strategic Policy 12 - Matlock/Wirksworth Sub Area
   Strategic Policy 15 - Infrastructure
   Development Management Policy 2 - Development in the Countryside
   Development Management Policy 6 - Landscape Character
   Development Management Policy 7 - Biodiversity and Geological Interests
   Development Management Policy 9 - Design and Appearance of Development
   Development Management Policy 16 - Land for Residential Development
   Development Management Policy 17 - Affordable Housing
   Development Management Policy 21 - Open Space
   Development Management Policy 22 - Access and Parking
   Development Management Policy 23 - Planning Obligations and Community Infrastructure

3. Supplementary Planning Guidance
   Landscape Character and Design Supplementary Planning Document (July 2007)

4. National Planning Policy
   National Planning Policy Framework

ISSUES:

1. Background

This application is a similar resubmission of planning applications 11/00742/OUT and 12/00733/OUT. Planning application 11/00742/OUT was refused planning permission for the following reason:

1. The site is greenfield agricultural land in the open countryside outside of the Settlement Framework boundary of Matlock. As such, the proposed development of
open market dwellings would be an unjustified and unsustainable residential development of the site which would be inherently encroaching and harmful to the open character and appearance of the countryside contrary to Policies SF4, H4 and NBE8 of the adopted Derbyshire Dales Local Plan (2005).

The applicant appealed the decision and the Planning Inspector had regard to the National Planning Policy Framework (NPPF). He concluded that none of the development plan policies in the adopted Derbyshire Dales Local Plan were inconsistent with the NPPF. The Planning Inspector, in determining the appeal application, concluded that:

‘……Notwithstanding my finding in respect of the character and appearance of the landscape setting this does not outweigh my concerns regarding the principle of development on greenfield land in the absence of a clear and demonstrable shortfall in housing supply….’

Further to the Appeal decision, the site was identified as a potential new housing site to meet the required allocation up to 2028, as part of the Derbyshire Dales Housing Issues and Options consultation. However, the Local Plan Advisory Committee meeting on 10th December 2012 identified the site as having a priority 3 status and the site was not taken forward into the emerging Local Plan.

As a result, the applicant submitted a further planning application 12/00733/OUT challenging the District Council’s housing land supply. This was refused for the same reason as planning application 11/00742/OUT and is currently subject to appeal and awaiting a date for a Public Inquiry.

2. Planning Policy

Before assessing the planning merits of this particular application, it is important to set out the policy context (local and national) and the weight to be given to the different components of the development plan. Conformity or conflict with the policy context will then need to be weighed in the planning balance with other material considerations.

For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan for the Derbyshire Dales comprises the Adopted Derbyshire Dales Local Plan (2005). The East Midlands Regional Plan was formally revoked on 12th April 2013 under the provisions of Section 109 of the Localism Act 2011 (SI 2013/629).

The Derbyshire Dales Local Plan was adopted in November 2005 and covered the period to 2011. In May 2008 the District Council requested that the Secretary of State issue a direction to save specified policies beyond 24th November 2008. On 20th November 2008 the Secretary of State issued a direction under paragraph 1 (3) of Schedule 8 of the Planning and Compulsory Purchase Act 2004 saving the majority of policies in the Adopted Local Plan beyond the initial three years.

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 (Paragraph 12), in accordance with Paragraph 212 the policies contained within the Framework are material considerations which must be taken into account.
Paragraph 214 of the Framework gave full weight to existing plan policies for 12 months from March 2012. Paragraph 215 advises that beyond the end of March 2013, due weight should still be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given). The current application therefore needs to be determined having regard to Paragraph 215 advice.

Paragraph 14 advises that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date Local Plan; and also in circumstances where the development plan is absent, silent or relevant policies are out-of-date 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 Adopted Derbyshire Dales Local Plan
Central to the consideration of this application is the question of whether the relevant policies of the Adopted Derbyshire Dales Local Plan are up-to-date having regard to the provisions of Paragraph 14 of the Framework. In this context, the relevant policies are SF4 and H4.

Policy SF4 of the Adopted Local Plan identifies settlement framework boundaries and establishes that all land outside the defined settlement framework is for the purposes of planning policy, defined as open countryside. The policy sets out the criteria for the consideration of development proposals outside of a defined settlement framework, the purpose of which is to ensure that development meets the principles of sustainable development. The policy states that development will only be permitted in the open countryside if it meets the following criteria:

a) it is required to serve the essential requirements of agriculture, forestry and outdoor sport or recreation; or
b) it assists the growth of tourism; or
c) it forms part of a farm-based diversification scheme; or
d) it represents the acceptable re-use, adaption or extension of an existing rural building; or
e) provides for other needs which can only be met in a rural area.

Policy H4 reflects the policy criteria of Policy SF4 and outlines the criteria for dealing with proposals for residential development outside settlement framework boundaries. The policy states that planning permission will be granted for housing that:

(a) is essential for the operation of agriculture, forestry or other enterprise that needs to be in that location; or
(b) consists of affordable housing for an identified local need.

It was established in the recent appeal case of Willow Meadow Farm that in order to meet an acknowledged requirement to provide additional land for housing development, the nature of which cannot be accommodated other than by considering sites outside the existing defined Settlement Framework Boundaries, Policies SF4 and H4 of the Adopted Local Plan are not consistent with the NPPF. This is because the wording of these policies is restrictive in nature, leaving no opportunity to accommodate required
development without breaching policy. This is a significant change in policy circumstances to that which existed when the previous appeal on this site was determined.

In contrast, the Framework seeks a more balanced approach to accommodating development such that harm or loss can be allowed where there is a clear and convincing justification. Therefore, the key policies of the Local Plan in the context of accommodating required housing outside settlement frameworks are inconsistent with the approach adopted in the Framework.

There is a significant body of evidence arising through appeal decisions nationally, which clearly indicates the difficulties that exist in seeking to resist proposals for residential development on the basis of plan policies adopted pre-NPPF, even where this involves significant greenfield development outside existing settlement boundaries. Having regard to notable appeal cases in Honeybourne, Sapcote and Tenbury Wells and in the context of Paragraph 215 of the Framework, the pertinent policies of the adopted Derbyshire Dales Local Plan cannot be considered to be up to date because:

1. They make no provision for the allocation or development of land for residential purposes beyond 2011.
2. The key policies of the plan i.e. Policy SF4 and H4 are effectively policies of restraint which prevent development beyond the existing defined settlement framework boundaries for open market housing.
3. The Local Planning Authority as part of the emerging Derbyshire Dales Local Plan, have acknowledged a need to provide land for housing development, however there is no adopted plan policy mechanism to achieve such an objective.
4. The adopted Local Plan policies were prepared in a policy context of restraint which focussed upon a presumption in favour of the development of previously developed land in preferences to greenfield development. As such, they do not reflect the far more relaxed approach of the NPPF which does not prevent the development of greenfield sites where plan policies are out-of-date, or where there is an inadequate 5 year supply of land, or where the development does not result in any adverse impacts that would significantly and demonstrably outweigh the benefits

If one acknowledges the above, the provisions of Paragraph 14 of the NPPF are engaged. As such, where the development plan is absent, silent or relevant policies are out of date (as would be the case), decision takers should grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In a High Court judgement in the case of Tewksbury BC v SSCLG, Mr. Justice Males considered the relevance of Paragraph 14 of the NPPF and observed that:

‘The weight to be given to a development plan will depend on the extent to which it is up to date. A plan which is based on outdated information, or which has expired without being replaced, is likely to command relatively little weight.’

Furthermore, the Judge observed that Paragraph 14 of the NPPF provides for what should be done when an existing plan is out of date. The result, in practice, would be that relevant policies would be regarded as carrying little weight, and there would be a presumption in favour of granting planning permission.
Prematurity
Paragraph 216 of the Framework allows decision-takers to also give weight to relevant policies in emerging plans according to:-

- The stage of preparation (the more advanced the more weight)
- The extent to which there are unresolved objections (the less significant the unresolved objections the greater the weight)
- The degree of consistency of relevant policies in the emerging plan to policies in the framework the greater the weight.

The emerging Derbyshire Dales Local Plan has been published for public consultation and it is scheduled to be submitted to the Secretary of State in April 2014 with an examination in public anticipated for Autumn 2014. Whilst the emerging Local Plan contains a number of proposed allocations for housing development, these are subject to significant objections and, as such, there is no certainty that they will survive the examination in public process.

Again, there is a significant body of appeal case precedent on the issue of prematurity. However, there has been no support given by the Secretary of State in cases where this has been used as a reason to resist development proposals in advance of an examination in public, especially in cases where proposed allocations are the subject of significant objection since to do so, runs contrary to the objectives of the NPPF to significantly boost the supply of housing.

The issue of prematurity was considered in the Willow Meadow Farm appeal whereby the Secretary of State opined that the promotion of housing, in the absence of an up-to-date development plan, is specifically advocated in Paragraph 14 of the Framework and, as such, the pursuance of residential schemes in the face of emerging but unadopted development plan documents cannot, in itself, render a proposal premature. Therefore, a prematurity argument is likely to carry little or no weight.

Housing Land Supply
One of the primary objectives of the National Planning Policy Framework is to ‘significantly boost the supply of housing land’. In this regard, there is a specific requirement to identify and update annually, a supply of specific, deliverable sites sufficient to provide five years of housing land against the housing requirement for the area, with an additional buffer of 5% to ensure choice and competition in the market.

In order to assess whether a five-year supply can be demonstrated, it is necessary to firstly consider the most appropriate housing requirement for the plan period, based on objectively assessed needs. This provides the annual figure which, when multiplied by 5, provides the main part of the five-year supply requirement.

Following the abolition of the Regional Spatial Strategy, this responsibility now falls to individual local planning authorities through the development plan preparation process. In February 2013, the District Council endorsed a strategic housing requirement of 4400 dwellings in the period 2006-2028. This figure is based upon a policy of restraint which does not seek to meet the full, objectively assessed needs of the area and is the subject of substantial objection, the nature of which will be determined through the examination in public process. In advance of this, and in light of more recent demographic information,
the Council has recently commissioned further work to assess the scale of objectively assessed need, the nature of which will inform the preparation of the revised Derbyshire Dales Local Plan prior to its submission to the Secretary of State. However, this will inevitably be in excess of 4400 dwellings.

Having regard to the provisions of the NPPF, and Paragraph 14 in particular, even where a 5 year supply can be demonstrated, this does not negate the fact that relevant development plan policies are out-of-date and does not in itself provide a sustainable reason for refusal. As such, the consideration of this application falls to be determined on the Paragraph 14 criteria of ‘significant and demonstrable harm’ rather than simply the adequacy or otherwise of a 5 year supply.

Summary
The application of the policies in the NPPF is having a profound impact upon communities across the country, particularly in circumstances where development plans are close to but not yet finalised. It is worth briefly summarising how its provisions affect the decision-making process before going into the individual detailed points for discussion and culminating in a balanced judgement on the planning merits at this moment in time.

In the context of this application, which seeks to release land to meet the future housing needs of the District, it is particularly important to reassess the relevance and degree of consistency of Policies SF4 and H4 with the framework. These policies were written to control housing development in a context whereby housing needs were to be met within existing settlements with the original plan period expiring in 2011. In this context, it was successfully argued by the appellants at the Willow Meadow Farm appeal that the policies were not in accordance with the NPPF.

As such, the policy statement on the presumption in favour of sustainable development in Paragraph 14 of the NPPF is invoked which for decision-takers means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date granting permission unless:-
  - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework taken as a whole; or
  - specific policies of the framework indicate that development should be restricted.

As is evident from the history section of this report, this application is a resubmission of an earlier refused application 12/00733/OUT. That application, which is now the subject of a planning appeal at Public Inquiry, was determined prior to the Willow Meadow Farm appeal decision, which was allowed contrary to the District Council’s decision.

The Council does of course need to weigh other plan policies, the NPPF and the emerging Local Plan policies in the decision-making process. However, the inference of the decision on Willow Meadow Farm, and other appeals throughout the country, is that, in a situation such as this, for the Council to justify refusal of the application it would need to demonstrate that any adverse impacts of doing so would ‘significantly and demonstrably’ outweigh the benefits.
The policies of the emerging plan have a generally high degree of consistency with the NPPF as they were produced after its introduction. However, the degree of weight that can be attached to them is limited because of the early stage of preparation of the plan.

The above policy context is central to the consideration of this application. The remainder of this report comprises a logical assessment of the planning merits of the application in the current context.

3. The Impact of Development on the Character and Appearance of the Landscape

Paragraph 109 of the NPPF, and paragraph 17 in the core principles, stress the need to recognise the intrinsic character and beauty of the countryside in reaching planning judgements and are relevant to the consideration of this application.

In terms of landscape impact, this has been assessed in the light of the previous Appeal ref: APP/P1045/A/12/2169838 and the Planning Inspector made the following comments:

The development would be well screened and contained on its inner edges by the existing built form and well landscaped gardens within the settlement framework. In addition, from the west and north west the topography and woodland would also largely screen the development from distant views. There are however closer views from the public right of way above the site from where there would be views down onto the site. However viewed from this vantage point the development would be seen against a backdrop of existing development. There would be more open views towards the site from the Chesterfield Road direction, although the belt of mature beech trees currently provides some screening of the site itself.............The Council acknowledge the site’s overall potential to contribute towards the continued sustainability of Matlock in the longer term and by definition any such development into this area will be an encroachment into open countryside. However, because of the modest scale of the site and its contained nature within the wider landscape and provided the reserved matters were sensitively handled, and appropriate conditions applied, I am satisfied that development would not significantly impact on the wider landscape character of the area and would not conflict with DDLP policy NBE8.

In this respect, in the absence of an overriding case in relation to over provision of housing, it would be perverse for the District Council to refuse planning permission on the basis of impact on the landscape given the view of the previous Planning Inspector.

4. Sustainability of Housing in this Locality, the Housing Mix and the Role of Affordable Housing

In regard to the sustainability of the site, this has also been assessed in the light of the previous Appeal ref: APP/P1045/A/12/2169838 and the Planning Inspector made the following comments:

I accept that the site is reasonably close to Matlock’s services and facilities and in that respect may be a sustainable location. However, inasmuch as the proposal conflicts with a number of policies of the DDLP, which have at their heart sustainability principles, I conclude that it would be inherently unsustainable to allow
the development in the absence of any material consideration that would outweigh development plan policies.

The development of greenfields outside the Settlement Framework boundary is, to a degree, unsustainable but this now needs to be judged in the context of the need to provide an adequate supply of housing land to meet the future needs of the town.

Notwithstanding this, it is logical to assess how a development of this site could assimilate into the existing built framework. The application site directly abuts the built framework of the town. Pedestrian links into the town from this point are good albeit on a relatively steep gradient. There is also a regular bus service to connect the development into the public transport network for the town. Therefore, it is considered that, in the light of the requirement for residential development sites to be brought forward in the District to meet the requirements of the NPPF being a significant material consideration, the site, being adjacent to the Settlement Framework boundary, would be a sustainable site for such development.

Public comment on accessibility and sustainability is acknowledged but the comments could, it is considered, be applied to the majority of the sites that have been considered for meeting the housing needs of the town.

5. Provision of Affordable Housing

The applicant has proposed to provide 40% of the development as affordable housing on site. However, the applicant is prepared to consider a split provision as agreed with the Bentley Bridge site which was a 25% on-site provision and 20% off-site contribution, giving the equivalent of 45% provision overall.

The District Council’s Head of Housing has previously justified such provision at the above site on the basis that off-site contributions can play a significant role in helping to meet specific housing needs on other sites which would otherwise prove more problematic to deliver. The greatest need in Matlock currently is for bungalows and single person flats. Whilst it is possible to meet some of this need on the application site, it is often in limited numbers only. In this respect, using Section 106 financial contributions in a strategic way, by particularly helping to deliver bungalows on larger affordable housing sites, would be the Head of Housing’s preference in terms of using the off-site contributions.

6. Design and Layout

It is considered that an appropriate layout of the site can be secured at reserved matters stage to reflect the existing pattern of development in the area and the dwellinghouses already developed at Moorcroft.

7. Impact on Amenity of the Occupiers of Neighbouring Dwellinghouses

It is considered that the number of dwellinghouses can be accommodated on the site without significant harm to the privacy, light or outlook to occupiers of the existing residential properties adjacent to the site.
8.  Impact on Trees

The County Council's Arboricultural Officer has previously advised that she is pleased to see that the indicative layout proposes to retain the northern tree line outside garden areas and plant new trees to ensure a long term retention of the tree line as a landscape feature. The indicative layout also suggests that the Lime tree in the field be retained on open space rather than incorporated into garden.

In terms of the impact on the protected trees on the boundary, this has also previously been assessed in the light of the previous Planning Appeal ref: APP/P1045/A/12/2169838 and the Planning Inspector made the following comments:

_Although it is proposed that the development will keep trees worthy of retention, the tree survey identifies the need for removal of significant specimens, particularly beech on the north east and north west sides. Beech is particularly susceptible to wind blow and whilst this is of no particular danger for as long as the site is open countryside, the development of the site requires either that houses are kept clear of the fall area of the trees, which the indicative layout suggests is not proposed, or the trees are removed, opening up the site to inward views._

To seek to address these concerns, the applicant has indicated how the dwellinghouses could be set away from the protected trees. It is appreciated that the submitted layout is indicative but it does demonstrate a degree of space for the trees that would allow for their retention, all of which can be secured at reserved matters stage.

9.  Impact on Wildlife

Whilst not commenting on the current planning application, Derbyshire Wildlife Trust (DWT) has previously advised that there has been a mis-identification of species and the anomalies between the results of the surveys carried out by the ecological consultant compared with the survey undertaken by the Derbyshire Wildlife Trust’s Senior Local Wildlife Sites Officer. In this respect, it is advised that the botanical element of the previous survey is considered to be poor and not of the standard normally expected. As a result, it is advised that the ecological interest associated with the site has been somewhat undervalued.

Whilst the presence of 12 grassland indicator species would meet the criterion for designation as a Local Wildlife Site, it is acknowledged that only 6 of these species would be considered to be locally frequent and that the interest is restricted to a small proportion (approx. 0.3 – 0.5ha) of the site. As such, the site falls slightly below the threshold for designation as a Local Wildlife Site.

However, DWT consider the site to have significant biodiversity value in a local context, particularly as many of the surrounding fields are far more intensively managed. It is also likely that the site has invertebrate, breeding bird and small mammal interest which has not been considered by the survey undertaken by Whitcher Wildlife.

Therefore, DWT advised that mitigation and compensation should be provided for the loss of this local biodiversity asset, either by the retention of a meaningful area of the most diverse element of the grassland, and its incorporation within the development as part of informal open space provision, or through the creation of new grassland habitat of an
equivalent size and quality at a suitable alternative location. This would need to include the provision for appropriate management and monitoring for a suitable period after the development has taken place. As a very last resort, consideration could be given to a financial contribution towards securing the positive management of an appropriate nearby nature conservation site.

DWT also advised that any vegetation clearance, including tree removal, should be scheduled to avoid the bird breeding season which extends from March to late August. Prior to any tree removal, the trees should also be subject to a thorough inspection for evidence of bats by a suitably qualified ecologist. Apart from the potential for bats, DWT advise that there are unlikely to be any other protected species issues arising with this application. In addition, DWT suggested a scheme should be submitted identifying the location of all habitats and trees, including buffer zones, which will be retained. All such retained areas should be protected from damage during any site preparation and construction work by the erection of adequate temporary fencing.

Given the above, it is considered that if outline planning permission were granted, the above issues could be addressed by the imposition of conditions.

10. Provision of Open Space and Play Space

Policy L6 requires that new residential developments make provision for outdoor playing space and childrens’ play space. Larger residential developments generate their own demand for sport, recreation and childrens’ play space. The National Playing Fields Association standards set out the most appropriate manner in which to calculate open space provision, calculated at 2.4ha per 1000 persons. In this respect, the District Council will require developers to make an appropriate level of such provision on sites of 0.4ha or more. No meaningful area for open space is included as part of the indicative layout. The requirement for equipped children’s play areas is calculated based on the number of dwellings proposed and the area of requirement per dwellinghouse.

It may be that the scale of any on-site equipped play area and associated open space will be of limited value. As such, Policy L6 does allow for financial contributions towards off-site provision to be made where it is not considered feasible to provide the required facilities on the site. This would be a pragmatic response in these circumstances whereby insisting on such facilities within the site would result in limited areas for open space and children’s play. The pooling of resources could also provide enhanced facilities for the site and wider community. Accordingly, a condition is required to secure appropriate open space and play provision given the outline nature of this application.

11. Crime Prevention

The County Council’s Crime Prevention Design Advisor has previously raised concern that no information in the Design and Access Statement to demonstrate how crime prevention measures are to be implemented into this design. It is recognised that the parking situation for the affordable element on the site has improved on the indicative layout drawing but having vehicles parked at the rear of properties is not an ideal situation as additional lighting would be required for the adjacent private shared driveway. In this respect, it is advised that if outline planning permission were to be granted, that the Crime Prevention Design Advisor be consulted on the Reserved Matters stage.
12. Drainage

Whilst concerns have been raised over drainage capacity, the applicant has advised that there is adequate provision. In terms of surface water drainage, this would have to be SUDs compliant and such matters would be addressed through Buildings Regulations.

13. Archaeology

The Development Control Archaeologist has advised that there are no records of archaeologically significant finds or features within the site, although a find spot of a polished stone axe head at Gritstone Road just to the south (HER 10065) suggests some background potential for prehistoric activity in the vicinity. However, on balance, because of the relatively small size of the site, there is insufficient archaeological potential to justify placing an archaeological requirement upon the applicant.

14. Conclusion

In reaching a judgement on the merits of any planning application the decision-maker must determine the application in accordance with the development plan unless material considerations indicate otherwise. That decision making balancing exercise is done at the specific moment that a decision is made on the particular application. At the present time, the District Council, like many others, finds itself in a situation whereby the policies of the National Planning Policy Framework are overriding some of the policies in adopted Local Plans prior to the adoption of a replacement Local Plan. In the process, little or no weight is being afforded to emerging development plan policy, particularly where such policies are subject to outstanding objections.

The decision on the Willow Meadow Farm appeal, along with others around the country, has demonstrated the significance of Paragraph 14 of the NPPF, that is where a development plan is absent, silent or where relevant policies are out-of date, there is a presumption in favour of granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework. The District Council finds itself in such a situation.

The previous application was determined in a very different policy context, prior to the decision on Willow Meadow Farm and prior to the significant body of appeal cases and case law that has recently emerged. It was refused on a 5 year supply argument. Therefore, in the absence of a sustainable reason for refusal on a 5 year supply argument, and having regard to the provisions of Paragraph 14 of the NPPF, the adverse impacts of the development are not considered in NPPF parlance, to significantly and demonstrably outweigh the benefits. Approval is therefore recommended subject to appropriate conditions and the negotiation of a S106 Planning Obligation agreement to deal with those matters which cannot be addressed by conditions.

OFFICER RECOMMENDATION:

That authority be delegated to the Corporate Director to grant outline planning permission subject to the completion of a Section 106 Planning Obligation Agreement to secure the appropriate on-site affordable housing provision (which may also include a financial contribution towards off-site affordable housing) and any other matters that cannot be dealt with by conditions, and subject to the following conditions:

1. Condition ST01a: Time Limit on Outline
2. Condition ST03a: Submission of Certain Reserved Matters (delete (d) access)

3. Condition LA13a Landscape to be Carried out and Maintained

4. Condition LA1 Tree Survey – Reserved Matters

5. Condition LA5a Protection of Retained Trees

6. Condition GR5 Agree Ground Level Slabs

7. The development shall be carried out in accordance with the recommendations in paragraphs 5.1 to 5.4 of the Phase 1 Habitat and Protected Fauna Survey received on 19th November 2013.

8. No trees or shrubs that may be used by breeding birds, shall be removed between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting activity on the site during this period, and details of measures to protect any nesting birds during this period have been first submitted to and approved in writing by the Local Planning Authority.

9. No dwellings hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details to have been submitted to and approved in writing by the Local Planning Authority.

10. 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.

11. 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.

12. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives’ and visitors’ vehicles laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

13. Throughout the period of construction, 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 or other extraneous material on the public highway.
14. The internal layout of the site shall be designed in accordance with the ‘6C’s Design Guidance (http://www.leics.gov.uk/htd) and prior to the first occupation of any dwelling, the estate street carriageways and footways between the dwelling and the adopted highway shall be constructed to a minimum binder course level with highway surface water drainage and street lighting in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

15. Prior to occupation of any dwelling, the subject of this permission, a turning area (or alternative interim provision as may be agreed in writing with the Local Planning Authority) suitable for service/emergency vehicles shall be constructed and made available for use. Any temporary area shall be maintained until such time as the permanent turning area is constructed and available for use.

16. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents, visitors, service and delivery vehicles (including secure/covered cycle parking), located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

17. Any gates, including any part of their opening arc, shall not be permitted to open outwards over the adjoining public highway. Gates shall be set back within the curtilage or open into the site only.

18. The dwellings, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents (including secure/covered cycle parking), located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

19. No works of construction shall take place on the site outside of the following hours:
   Monday to Friday       08.00 to 20.00
   Saturday               09.00 to 13.00
   Sunday/Bank Holidays   No construction

20. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

   a) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 25% of housing units/bed spaces with an off-site financial contribution based on 20% of the approved dwellinghouses;

   b) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
c) the arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) if no Registered Social landlord is involved;

d) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

e) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

21. Condition GR9 Secure by Design

22. No residential development shall commence until full details of the laying out of all open spaces, including children’s play areas, play equipment and hard and soft landscaping and arrangements for their future maintenance have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and maintained in accordance with the agreed details unless the Local Planning Authority gives its written consent to any variation, such as alternatively making off-site provision, or upgrading and management of such off-site facilities, where this may otherwise be deemed more appropriate.

Reasons

1. Reason ST01a

2. Reason ST03a

3. Reason LA13a (government policy contained in the National Planning Policy Framework and the aims of Policies SF5, H9, NBE6, NBE8 and NBE26 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policies 6 and 9 of the Derbyshire Dales Pre-submission Draft Local Plan (2013)).

4. To ensure the proper management of landscaped areas and to protect wildlife, support habitat and secure opportunities for the enhancement of the nature conservation value of the site to comply with the aims of government policy contained in the National Planning Policy Framework and the aims of Policies SF5, H9, NBE4, NBE5, NBE6, NBE8 and NBE26 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policies 6, 7 and 9 of the Derbyshire Dales Pre-submission Draft Local Plan (2013).

5. Reason LA1 (government policy contained in the National Planning Policy Framework and the aims of Policies SF5, H9, NBE6 and NBE8 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policies 6 and 9 of the Derbyshire Dales Pre-submission Draft Local Plan (2013)).
6. Reason LA5a: (government policy contained in the National Planning Policy Framework and the aims of Policies SF5, H9, NBE6 and NBE8 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policies 6 and 9 of the Derbyshire Dales Pre-submission Draft Local Plan (2013)).

7. Reason GR5 (government policy contained in the National Planning Policy Framework and the aims of Policies SF5, H9, NBE6 and NBE8 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policies 6 and 9 of the Derbyshire Dales Pre-submission Draft Local Plan (2013)).

7-8. To ensure that the development has due regard to the presence of protected species in order to maintain/enhance the status of the species to comply with government policy contained in the National Planning Policy Framework and the aims of Policies NBE4 and NBE5 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policy 7 of the Derbyshire Dales Pre-submission Draft Local Plan (2013).

9. To provide satisfactory surface water drainage provisions to comply with government policy contained in the National Planning Policy Framework and aims of Strategic Policy 1 of the Derbyshire Dales Pre-submission Draft Local Plan (2013).


18. To ensure the provision of adequate off-street parking provision in the interests of highway safety site to comply with government policy contained in the National Planning Policy Framework and the aims of Policy TR8 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 and Development Management Policy 22 of the Derbyshire Dales Pre-submission Draft Local Plan (2013).

19. To safeguard the amenity of neighbouring residents to the development site to comply with government policy contained in the National Planning Policy Framework and the aims of Policies SF5 and H9 of the adopted Derbyshire Dales Local Plan (2005) and the aims of Strategic Policy 1 of the Derbyshire Dales Pre-submission Draft Local Plan (2013).

20. In order to secure the provision of affordable housing in accordance with government policy contained in the National Planning Policy Framework and the aims of Strategic Policy 1 and Development Management Policy 17 of the Derbyshire Dales Pre-submission Draft Local Plan (2013).

21. Reason GR9
22. To ensure the satisfactory provision of open space and childrens’ play area
provision in accordance with policy contained in the National Planning Policy
Framework and the aims of Policy L6 of the adopted Derbyshire Dales Local Plan
(2005) and the aims of Strategic Policy 10 and Development Management Policy 22
of the Derbyshire Dales Pre-submission Draft Local Plan (2013).

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

The Local Planning Authority, prior to the submission of the application, engaged in a
positive and proactive dialogue with the applicant which resulted in the submission of the
scheme having regard to the government’s requirements with respect to available housing
land supply.
This decision notice relates to the following documents:

Site Location Plan 1:1250 received on 19th November 2013
Indicative Layout/Levels Drawing No. SY.L.01 received on 19th November 2013
Design and Access Statement received on 19th November 2013
Report on Trees (July 2011) received on 19th November 2013
Phase 1 Habitat and Protected Fauna Survey (August 2011) received on 19th November
2013
13/00771/FUL

SINGLE STOREY EXTENSION AND RAISING OF RIDGE HEIGHT TO LINK ABOVE ARCHWAY AT 1 MILLFIELD COURT, MATLOCK FOR MR. R. SHARPE

Town Council: Matlock
Application type: Full
Date of receipt: 31.10.13
Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:
The application site comprises a dwelling that is part of a group of dwellings approved under application no. 03/02/0104 at 1-4 Millfield Court, Lumsdale Road, Matlock. The site is located on the frontage to Lumsdale Road within the Lumsdale Conservation Area.

THE APPLICATION:
Full planning permission is sought for the following:
- rear extension to form garage/workshop measuring 7m deep 5.5m wide and 3.95m high
- and increase in height of the masonry on the front elevation above the archway and raising of the ridge height by some 0.6m.

The extensions are proposed to be in materials to match the dwelling. Painted timber boarded panels are also proposed to the garage. The rooflights proposed to the extensions (one to the ‘archway’ extensions and four to the garage workshop) are proposed to be black, conservation style.

The applicant advises that the property is visible from the footpath alongside the A615 but considers the garage would be screened in views.

RELEVANT HISTORY:
09/00828/FUL Revisions to approved landscaping / car parking layout - Granted
03/02/0104 Erection of 5 no. dwellings, detached garages and associated car parking/ access - Granted.

CONSULTATIONS:
Town Council - No objection subject to matching materials
Local Highway Authority – No objection
Conservation Advisory Forum – Object:
- whilst property is a new-build development, consider the original design composition and layout provide a strong architectural statement
- consider the proposed garage extension to the rear court would seriously affect that existing composition, form and layout and erode that composition by the inclusion of such an extension
- consider in design terms the proposed extension is over-wide, the roof too shallow and the large garage doorway and incongruous areas of timber boarding to the side elevations all contributed to an unacceptable design form
- consider the proposal would have a negative impact on the existing building complex composition/layout and consequently have a negative impact on the Lumsdale Conservation Area
consider the ‘archway’ and this lower part of the building composition was an important part of its general character and appearance providing a lower ‘link’ block between two buildings - raising the roof will significantly erode this important architectural element.

REPRESENTATIONS:
None

POLICIES:
1. Adopted Local Plan (2005)
   SF4  Development in the Countryside
   SF5  Design and appearance of Development
   H2   Extensions to Dwellings
   NBE21 Development Affecting a Conservation Area
   TR8  Parking Requirements for the Development

2. Pre-submission Draft Local Plan
   Development Management Policy 2 - Development in the Countryside
   Development Management Policy 8 - The Historic Environment
   Development Management Policy 9 - Design and Appearance of Development
   Development Management Policy 22 - Access and Parking

3. Lumsdale Conservation Area Appraisal

4. National Planning Policy Framework

ISSUES:
1. The key issues for consideration are the impact of the proposals on the character and appearance of the dwellinghouse, the group of dwellinghouses within which it sits and the Lumsdale Conservation Area, and the impact on the amenity of neighbouring residents. The above matters need to be addressed having regard to Policies SF4, SF5, H2 and NBE21 of the adopted Local Plan (2005).

2. Regard has to also be given to the Pre-submission Draft Local Plan (2013) and the National Planning Policy Framework (NPPF). However, the Pre-submission Draft Local Plan is some way off being adopted and it is considered that the policies contained in the adopted Local Plan (2005) reflect government policy in the NPPF.

3. In terms of the impact of the development on the character and appearance of the area, the Officer’s views reflect those of the Conservation Advisory Forum. Whilst the property forms part of a new-build development, it is considered the original design composition and layout of the buildings provide a strong architectural statement.

4. In design terms, the proposed extension is over-wide, the roof has too shallow a pitch and the large garage doorway, and incongruous areas of timber boarding to the side elevations, all contribute to an unacceptable design form. In this respect, the proposed garage extension to the rear court would harm the existing form and layout of the dwellinghouses and erode that composition. It has to also be appreciated that the property can be viewed from the footpath along the A615 and also from a footpath that connects the A615 to Lumsdale Road to the west of this residential development.
5. Given the above, it is considered that the proposed garage would have a negative impact on the existing building complex composition/layout and consequently have a negative impact on the Lumsdale Conservation Area. In addition, if such a proposal were to be repeated on the attached three storey dwellinghouse, which would be difficult to resist if this garage were to be approved, it would serve to fundamentally erode the character and appearance of the three storey development by creating a bland ground floor to this lower part of the building composition.

6. Whilst it is appreciated that Millfield House to the west of the archway has a rear projection, this is a link detached house (linked at first floor with the archway link); the projection is considered to befit such a dwelling as it is relatively modest in the extent it projects across the rear elevation.

7. In addition to the above, it is considered that the projection of the garage will have a significant impact on the amenity of the occupiers of the neighbouring dwellinghouse to the east. The garage would have an extensive length of wall abutting the neighbours’ rear patio/yard area for a distance of some 7m. This is considered an excessive extent of blank elevation to be looking onto from the patio, and this is not assisted with the inappropriate timberwork proposed to break up the extent of walling.

8. It is considered that the archway is an important part of the development’s general character and appearance, providing a lower ‘link’ block between two buildings. In this respect, raising the roof and introducing such an extent of masonry on the front elevation, will significantly erode this important architectural element.

9. In terms of parking provision, the Local Highway Authority has advised of no objection and thus the application complies with Policy TR8 of the adopted Local Plan (2005).

10. Given the above, it is considered that the proposals are incongruous extensions and alterations to this group of dwellings and will harm the character and appearance of the Lumsdale Conservation Area. As such, the proposals are contrary to Policies SF4, SF5, H2 and NBE21 of the adopted Local Plan and to government policy contained in the NPPF.

OFFICER RECOMMENDATION:
Planning permission be refused for the following reasons:

1. The proposed garage by reason of its design would harm the character and appearance of the dwellinghouse and thereby have a negative impact on the existing building complex composition/layout and the Lumsdale Conservation Area. As such, the proposal is contrary to Policies SF4, SF5, H2 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and government Policy contained in the National Planning Policy Framework.

2. The garage, given its scale and extent of projection, would have a significant overbearing impact on the amenity of the occupiers of the neighbouring dwellinghouse to the east. As such, the proposal is contrary to Policies SF4, SF5, H2 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and government Policy contained in the National Planning Policy Framework.
3. The raising of the roof and the introduction of a substantial area of masonry on the front elevation of the ‘archway’ will significantly erode the character and appearance of this important architectural element of the residential development. As such, the proposal is contrary to Policies SF4, SF5, H2 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and government Policy contained in the National Planning Policy Framework.

NOTES TO APPLICANT:

The Local Planning Authority, prior to the submission of the application, engaged in dialogue with the applicant and advised of concerns with respect to the impact on the character and appearance of the dwellings and the Lumsdale Conservation Area. Thereafter, 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:

Drawing No. 1321/01 received on 31st October 2013
Design, Access and Heritage Statement received on 31st October 2013
THE SITE AND SURROUNDINGS:
The site is an area of open land bounded by woodland of mature trees to the north, east and west. The woodland is subject to a Tree Preservation Order (DCC/TPO/115/A5). The southern boundary is open to views from the A6 and bounded by a low stone wall. The site is within the Derwent Valley Mills World Heritage Site.

THE APPLICATION:
Full planning permission is sought for the provision of nine holiday lodges. An indicative block plan has been submitted detailing four being sited to the west and five being sited to the east of the existing access onto the A6.

The applicant has referred to pre-application discussions with the Local Planning Authority in 2008 and an application was submitted for six wooden camping huts. The applicant advises that this was withdrawn as the landowners wished to continue their existing business and trade albeit this has now significantly reduced and the owners wish to pursue different interests.

The applicant has identified the following benefits of the site:
- it is close to tourist attractions of the Derwent Valley Mills World Heritage Site, the Peak District National Park, the historic towns of Matlock, Matlock Bath and Wirksworth and the historic village of Cromford
- the site is close to public footpaths to Cromford and Whatstandwell
- the site is in a sustainable location and accessible by a variety of transport modes
- the site has been used for business purposes
- the site would support sustainable rural tourism
- the lodges would be manufactured by a local company (Pinelog Ltd of Bakewell)
- the development would not have a prominent or adverse impact on the character and appearance of the immediate or wider landscape
- the lodges would have a natural timber appearance to blend into the site
- any lodges would be screened by existing and planned landscape features for the whole of its proposed operating season, so they will not be visible from outside the site, and the landscaping would provide soundproofing and privacy
- the income generated would assist with management of the land and its regeneration as a small, mixed broadleaf woodland
- on-site facilities are of a scale appropriate to the location and the site itself
- one of the eight lodges would be occupied by the site manager
- would provide alternatives to the car for local sightseeing

The applicant advises that the adopted Local Plan (2005) has expired and little weight could be attached to the emerging Local Plan given deliberations of a Planning Inspector at a recent Appeal in the District. Nevertheless, the applicant considers the proposal also complies with the policies of the adopted Local Plan (2005) and emerging policies in Pre-submission Draft Local Plan (2013). However, the applicant considers that the majority of the weight in policy terms should be given to the National Planning Policy Framework and considers the proposal to be in accordance with this.
The applicant has submitted a Flood Risk Assessment which states that the Environment Agency has identified the site is within Flood Zone 1 (little or no risk of flooding) and Flood Zone 2 (low to medium risk of flooding). However, the applicant has assessed the site level for the lodges at 85.7 AOD which is above the 1:100 and 1:1000 year flood level.

The drainage, subject to approval, is proposed to be connected to the existing sewage treatment plant which is close by to the north east of the site. The owners are also advised to be in discussion with the water authority to provide a new access to reduce the impact on the existing footpath network.

The applicant has also submitted a Tree Survey. This states that the trees on the site appear to be mainly about 60 years old and include numerous sycamore, many of which appear to have grown from stumps of trees cut down 60-70 years ago and now have several tall and rather crowded stems. Other trees include birch, wych elm, a beech and hawthorn, several elder and hazel bushes and ash and hazel saplings. It is advised that there is a need for woodland management. It is also advised that several trees have fallen recently as they have not had a secure roothold in the slope and given that part of the slope is of made up land.

RELEVANT HISTORY:
08/00891/FUL  Change of use of land and erection of 6 No. wooden camping huts and associated amenities building for tourism accommodation - Withdrawn

01/07/0536  Erection of agricultural building for livestock and storage of fodder and implements – Granted but not implemented

Applications prior to 1960 refused for residential, café and petrol station development

CONSULTATIONS:
Town Council – No Comments received at time of report preparation.

Local Highway Authority – Comment:
- require re-siting of vehicle access to the site
- details required of car parking spaces and manoeuvring space for cars and refuse lorries.

Environment Agency - No objection – Comment:
- there should be no lowering of ground level of the embankment on the edge of the development site which could extend the floodplain and increase flood risk to the development.

REPRESENTATIONS:
- A total of 16 letters of representation from neighbours and interested parties in support of the application. The comments can be summarised as follows:
  - utilises brownfield site positively
  - well designed attractive improvement to tourist amenities
  - will enhance tourist/visitor facilities - site ideal for such purpose
  - excellent facilities for walkers nearby
  - proximity to river and local walks
  - site would be screened
  - chalets would blend naturally into woodland setting
  - would preserve unique character of the World Heritage Site
- existing landscaping would be retained
- close to an existing residential holiday park
- complementary to sustainable tourism
- boost to tourism for the District
- would benefit local business
- superb location on the gateway to the World Heritage Site
- far better use of the land than as a totally unacceptable travellers site
- owners have been trying to sell business for a long time – the treatment of them has been disgraceful

POLICIES:
1. Adopted Local Plan (2005)
   SF4  Development in the Countryside
   SF5  Design and Appearance of Development
   EDT19 Tourist Accommodation Outside Defined Settlement Frameworks
   NBE5 Development Affecting Species Protected by Law or are Nationally Rare
   NBE6 Trees and Woodlands
   NBE7 Features Important in the Landscape
   NBE8 Landscape Character
   NBE25 Derwent Valley Mills World Heritage Site
   NBE26 Landscape Design in Association with New Development
   TR1  Access Requirements and the Impact of New Development
   TR2  Travel Plans
   TR8  Parking Requirements for New Development

2. Pre-submission Draft Local Plan (2013)
   Strategic Policy 1 - Sustainable Development Principles
   Strategic Policy 2 - Settlement Hierarchy
   Strategic Policy 3 - Protecting and Enhancing the Natural and Historic Environment
   Strategic Policy 6 - Promoting Peak District Tourism and Culture
   Strategic Policy 11 - Accessibility
   Development Management Policy 2 - Development in the Countryside
   Development Management Policy 3 - Agricultural and Rural Workers Dwellings
   Development Management Policy 6 - Landscape Character
   Development Management Policy 7 - Biodiversity and Geological Interests
   Development Management Policy 8 - The Historic Environment
   Development Management Policy 9 - Design and Appearance of Development
   Development Management Policy 13 - Holiday Chalets, Caravan and Campsite Developments
   Development Management Policy 22 - Access and Parking

3. National Planning Policy Framework

4. Department of Communities and Local Government - The Good Practice Guide on Planning for Tourism
ISSUES:

1. Introduction
Before considering the merits of this application, there is a need to set out the planning background of the site and to set out the relevant planning policy considerations.

2. Background
The application site has a varied planning history. It was a former ash tip, which seems to have largely established its current land form profile. There have been separate applications between 1930s and 1960s for development on the site including a residential development of thirty dwellings, a transport café and a petrol filling station which were all refused.

In more recent times, an agricultural building for livestock and storage was granted on the site in 2001 and a commencement of the permission has been agreed with the works to the access. There have, in more recent times, been planning enforcement issues raised with regard to the unauthorised chalet and storage containers on the site. At the present time, there are three enforcement notices on the site, all of which have taken effect.

3. Policy
There are several national and local planning policies that have relevance to the consideration of this application. Paragraph 6 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and one of the core principles is to encourage the effective use of land by reusing land that has been previously developed. Paragraph 17 (Core Planning Principles) and Paragraph 109 of the NPPF, also stress the need to recognise the intrinsic character and beauty of the countryside in reaching planning judgements and are relevant to the consideration of this application. The Core Planning Principles and Paragraphs 126, 133, 134, 137 and 138 also refer to the need to seek to preserve or enhance heritage assets; this is particularly relevant given the application site is within the World Heritage Site.

In terms of other policy considerations, Paragraph 215 of the NPPF advises that beyond the end of March 2013, due weight should still be given to relevant policies in existing plans according to their degree of consistency with the framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given). Paragraph 14 advises that for decision taking, this means approving development where the development plan is absent, silent or relevant policies are out-of-date unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Central to the consideration of this application is whether the relevant policies of the adopted Derbyshire Dales Local Plan are up-to-date. The applicant refers to Policy EDT20 (Holiday Chalets, Caravan and Camp Site Developments). However, this is not a saved policy of the adopted Local Plan. However, Policy EDT19 is relevant as the pre-amble to this policy advises that holiday chalets must be carefully controlled to ensure that they do not run contrary to the principles of sustainable development.

In terms of the adopted Local Plan, Policy NBE8 states that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape. Policy NBE25 also states that planning permission for development within the Derwent Valley Mills World Heritage site will only be granted where it does not have an adverse impact on its character and appearance. Other relevant
policies of the adopted Local Plan, which are considered to still reflect policy in the NPPF, include Policies SF4, SF5, NBE5, NBE6 and TR1 of the adopted Local Plan.

The proposal also has to be assessed in the context of the Pre-submission Draft Local Plan (2013). Development Management Policy 13 is the most pertinent and states that planning permission for holiday chalets will only be granted where the development would not have a prominent and adverse impact on the character and appearance of the immediate or wider landscape, any visual impact would be well screened by existing landscape features for the whole of the year from public vantage points, any on-site facilities are of an appropriate scale to the location and site and the site is in a sustainable location accessible by a variety of modes of transport.

Whilst the emerging Local Plan is some way off adoption it is considered that the above Policy reflects policy in the NPPF and, therefore, can be given a degree of weight. Equally, this applies to the other polices of the Pre-submission Draft Local Plan referred to above in the ‘Policies’ section.

Another material consideration is guidance contained in the ‘Good Practice Guide on Planning for Tourism.’ The purpose of this guide is to ensure that the importance of tourism is understood and to take this fully into account when taking planning decisions in order to effectively facilitate, promote and deliver new tourism developments in a sustainable way.

Paragraph 5.1 of The Good Practice Guide on Planning for Tourism advises consideration of the following in terms of the impact of development:

- **where the development is located** – developments need to be located where they are accessible to visitors (and for many, but not all developments, by means other than just by private car) and where they do not have an adverse impact upon sensitive environments;

- **how they are designed** – developments should be attractive to users, they need to work well in functional terms and they need to use natural resources in an efficient manner; and

- **how they fit into their surroundings** – developments need to respect their environs and complement them rather than detract from them. They should be designed to have a positive impact upon landscape, the historical setting and upon ecology.

Paragraph 5.3 advises that wherever possible and feasible for the development concerned, the applicant should look to:

- **locate the development close to public transport interchanges and bus routes which will not only help to reduce travel by car but also enable a wider range of people to visit the attraction;**

- **produce green transport plans – these are often appropriate for larger schemes where there may be scope to reduce private car travel by providing dedicated bus services or greater access by walking or cycling……**
Paragraph 20 relates specifically to accommodation such as holiday lodges. This advises that planners should carefully weigh the objective of providing adequate facilities and sites with the need to protect landscapes and environmentally sensitive sites.

With regard to on-site staff accommodation, paragraph 24 advises that, for many types of holiday parks, a residential managerial presence is often essential, to achieve quality service to the customer, security for the property, and to meet the obligations of health and safety regulations. Accommodation may sometimes also be needed for key members of staff. As far as possible, suitably located existing dwellings should be used to meet these accommodation needs. However, Paragraph 25 advises that local planning authorities should give consideration to the essential needs of all businesses located in rural areas, including tourism.

4. Sustainability

It is recognised that this development has the potential to create significant vehicle movements to and from the site as the site is located in the open countryside away from any significant settlement. However, it is along a main arterial route and can be accessed by public transport with a bus stop close by and access to the railway station at Whatstandwell. The land is also previously developed and there is a desire to see such sites re-used in preference to greenfield sites. The site is also within the Derwent Valley Mills World Heritage Site, which in itself is a tourist destination, and on the public footpath network. In this respect, whilst not located next to a settlement, the site is nevertheless considered a relatively sustainable location for tourism purposes.

The applicant has advised that there would be the potential to offer tours from the site in order to reduce car borne journeys. However, this would be difficult to control through a condition on any planning permission and unlikely to contribute significantly to persons arriving with cars not using them to get around. In addition, it is not considered that the proposed development is of such a significant scale that would require the submission of a Travel Plan in the context of Policy TR2 of the adopted Local Plan (2005).

Given the above, it is considered that the development would comply with the core principles for sustainable development contained in the NPPF and The Good Practice Guide on Planning for Tourism and with the preamble to Policy EDT19 and with Policy SF4 of the adopted Local Plan.

5. Economic Benefit

There would be some benefits to the local economy arising from the proposal. The applicant has advised that the actual development would include nine locally built Pinelog lodges, thus providing/retaining employment in the District. The operations of the site will also require employees and there would be a likely requirement for contractor services to maintain the site. In addition, the facility may be self-catering but will be likely in most instances to bring economic benefits to shops, tourist attractions and services in the area. In this respect, weight has to be given to the economic benefits of the development in the short and long term.

Given the above, it is considered that the development would comply with the core principles for economic development through tourism contained in the NPPF and The Good Practice Guide on Planning for Tourism.
6. Impact on Character and Appearance of the Open Countryside and the Derwent Valley Mills World Heritage Site

It is considered that the nine lodges, with their indicative siting on this relatively narrow site, would not allow sufficient space for vehicle access to them, parking areas, manoeuvring space, amenity space whilst also being able to effectively screen the site with landscaping. In this respect, it is considered that the holiday lodges would need to be turned through 90° and significantly reduced in number to allow the above to be adequately provided. Therefore, it is considered that the development proposed would be an overdevelopment of the site, with inadequate space for potential screening and, with such intensity of development of a non-traditional form, it would be inherently harmful to the character and appearance of the open countryside and the Derwent Valley Mills World Heritage site.

Whilst it is appreciated that the site is relatively close to existing residential/holiday park developments, these have been established for some considerable time. These do not set a precedent for holiday lodge development in the area which, if perpetuated, would appear readily apparent in the landscape and could significantly harm the character and appearance of the World Heritage Site and open countryside.

Given the above, it is considered that the development would fail to comply with the core principles for protecting the open countryside and areas of historic importance as contained in the NPPF and reflected in Policies SF4, SF5, NBE8 and NBE25 of the adopted Local Plan.

7. Use of Holiday Lodge as a Manager’s Dwelling

One of the nine lodges is proposed to be occupied by the site manager, thus being tantamount to a dwellinghouse in the open countryside, and regard has to be given to Policies SF4 and H4 of the adopted Local Plan and the National Planning Policy Framework.

In this respect, it is not considered essential for the site manager to be resident on site to serve such a limited form of development. The site is not so isolated that the manager could not reside in the local villages or towns and attend the site. As such, this element of the proposal is contrary to Policies SF4 and H4 of the adopted Local Plan and paragraph 55 of the National Planning Policy Framework.

8. Site Maintenance

The site will require maintenance and the applicant advises that the woodland and landscape would be managed as a result of the development. In this respect, it is likely that a building would be required for such maintenance equipment. Nevertheless, it is considered that such a building could be accommodated on the site, and permission has previously been granted for such a building. This would need further consideration if planning permission is granted for the holiday lodges as to the requisite scale, siting and appearance of such a building. This would need to be considered with a separate planning application if such a building is deemed necessary.

9. Highway Issues

The A6 (Derby Road) is subject to a 50mph speed limit where it passes the application site. The Local Highway Authority has advised that, whilst emerging visibility splays of 2.4m x 149m can be achieved from the sites existing vehicular access, the forward visibility to a right turning vehicle is restricted to only circa 105m. This deficient forward
visibility is a severe concern given that numerous road traffic accidents have occurred on this stretch of road in the last three years.

However, the Local Highway Authority has advised that the applicant is in control of sufficient land fronting the A6 to provide an adequate access location and has submitted a plan illustrating the works that will need to be carried out in order to overcome their concerns. However, in order to achieve this, the access would have to be relocated to the eastern end of the application site adjacent to, or over, what is a substantive drop in site levels. This may not be possible to be achieved without significant engineering works which would be subject to a speed survey to identify an acceptable position for the access.

In the event that planning permission is granted, there will need to be a condition to ensure that revised details of the access are submitted for approval. In addition, a detailed drawing illustrating the proposed parking and manoeuvring space within the site is required and sufficient manoeuvring space for a refuse vehicle to enter, turn and exit the site in a forward gear.

10. Amenity Issues
The site is very exposed to traffic noise and possible vibration from a busy arterial road. In this respect, there are some concerns as to what the impact may be on tourists staying at the lodges. However, this is considered a matter for the developer. They would need to be satisfied that the impacts of the A6 would not have an adverse impact on their visitors and ultimately the business operation.

11. Other Issues
Natural England advised on the previous planning application that there was no impact on the Cromford Canal SSSI or Local Nature Reserve. Whilst the applicant has not provided any information with regard to protected species, it is considered that given where the holiday lodges are proposed on this open and previously developed site, with little vegetation, that there will be no significant impact on protected species.

The Environment Agency commented on the previous application with regard to drainage; this was then proposed to be a non-mains system. However, the applicant now proposes to connect to the mains sewer thus, it is considered, overcoming this objection. Nevertheless, a condition will be required on any grant of planning permission to ensure adequate drainage facilities service the site. The Environment Agency has also commented that there should be no lowering of the ground levels on the site and thus which could extend the floodplain and increase flood risk to the development. However, this is not proposed by the applicant.

12. Conclusion
The provision of holiday lodges on this relatively accessible, previously used site may be acceptable in principle. However, this is a relatively narrow site and, in order to accommodate the lodges and allow for associated vehicle access to them, parking areas, manoeuvring space for cars and refuse lorries, amenity space and an appropriate level of landscaping to assimilate them into the landscape, the holiday lodges would need to be significantly reduced in number. In this respect, it is considered that the proposed development would be an overdevelopment of the site which would be harmful to the character and appearance of the countryside and the Derwent Valley Mills World Heritage site.
The proposal is also for residential accommodation for an on-site manager. However, this is not considered to be essential for the operation of the holiday lodges and no such clear justification has been submitted by the applicant in this respect. The dwelling would also be prominent and encroaching into the open countryside which would also be to the detriment of the character and appearance of the Derwent Valley Mills World Heritage Site. In this respect, the proposal fails to comply with Government policy contained in the National Planning Policy Framework and to Policies SF4, H4, NBE8 and NBE25 of the adopted Local Plan. As such, it is recommended that the application be refused permission on this basis.

The existing access detailed on the application drawings is inadequate to serve the development without potentially leading to an increased danger to users of the A6. Whilst this could be relocated, this may have an adverse impact on the character and appearance of the area and would need to be considered in more detail.

Given the above, it is recommended that planning permission be refused.

OFFICER RECOMMENDATION:
Planning permission be refused for the following reasons:

1. The scale of development proposed would be inherently prominent and encroaching and detrimental to the character and appearance of the countryside in this area of high quality and historic landscape within the Derwent Valley Mills World Heritage Site. As such, the proposal fails to comply with Government policy contained in the National Planning Policy Framework, Policies SF4, SF5, NBE8 and NBE25 of the adopted Derbyshire Dales Local Plan (2005) and Strategic Policies 1 and 3 and Development Management Policies 2, 6, 8, 9 and 13 of the Pre-submission Draft Derbyshire Dales Local Plan (2013).

2. The existing access detailed on the application drawings is inadequate to serve this more intensive form of development on the site without potentially leading to an increased danger to users of the A6 and persons in vehicles exiting the application site due to the deficient forward visibility to a right turning vehicle exiting the site. As such, the proposal fails to comply with Government policy contained in the National Planning Policy Framework, Policy TR1 of the adopted Derbyshire Dales Local Plan (2005) and Development Management Policy 22 of the Pre-submission Draft Derbyshire Dales Local Plan (2013).

3. The proposal includes the use of one of the lodges as a dwellinghouse for a site manager. In the absence of a clear justification that this is an essential requirement for the operation of the site, the proposal is considered an unsustainable form of development that would be prominent and encroaching and to the detriment of the character and appearance of the countryside and the Derwent Valley Mills World Heritage Site. As such, the proposal fails to comply with Government policy contained in the National Planning Policy Framework, Policies SF4, SF5, H4, NBE8 and NBE25 of the adopted Derbyshire Dales Local Plan and Strategic Policies 1, 2 and 3 and Development Management Policies 2, 3, 6, 8, 9 and 13 of the Pre-submission Draft Derbyshire Dales Local Plan (2013).
NOTES TO APPLICANT:
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:

Illustrative Drawing No. 8015-01 received on 4th December 2013
Design and Access Statement received on 4th December 2013
Tree Report received on 4th December 2013
Flood Risk Assessment received on 4th December 2013
APPLICATIONS TO CARRY OUT WORKS TO PRESERVED TREES:

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<tr>
<th>TPO NO.</th>
<th>ADDRESS/APPLICATION</th>
<th>DECISION/COMMENT</th>
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<tr>
<td>98</td>
<td>BIRCH GROVE, 82a LUMSDALE ROAD, UPPER LUMSDALE, MATLOCK FELLING OF TWO SYCAMORES Reasons: Dangerous PRUNING OF WILLOW Reasons: Not given</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>62 &amp; 109</td>
<td>6 NORMANHURST PARK AND LAND TO THE SOUTH-WEST OF 6 NORMANHURST PARK, DARLEY DALE PRUNING OF TREES Reasons: General maintenance Clearance for tractor Clearance over garage</td>
<td>PENDING DECISION</td>
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<tr>
<td>21</td>
<td>CULVER CROFT, LEA ROAD, LEA BRIDGE FELLING OF BEECH TREE Reasons: Unsatisfactory branch structure Overlong branches Structurally poor with tight fork Not a good long term tree Largely hidden behind Birch trees Long term management of the site PRUNING OF HORSE CHESTNUT Reasons: Overhanging driveway causing accumulation of leaves</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>10</td>
<td>LAND ADJACENT TO 9 PORTEOUS CLOSE, TWO DALES PRUNING OF WEEPING BEECH Reasons: To allow safe passage of vehicles Overhanging adjacent property Overhanging path</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>42</td>
<td>LAND ADJACENT TO FORTICRETE LTD, MASONCRETE FACTORY, OLDFIELD LANE, WARREN CARR PRUNING &amp; FELLING OF TREES Reasons: Clearance for lorries Dead Leaning towards neighbouring property Sparse canopy, large crossing limbs, Large rotting surface root</td>
<td>CONDITIONAL CONSENT</td>
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<td>TPO NO.</td>
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<tr>
<td>102</td>
<td>5 SMEDLEY STREET EAST, MATLOCK</td>
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<td></td>
<td>PRUNING OF BEECH TREES</td>
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<td>Reasons: To allow passage of vehicles</td>
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<td>Clearance from properties</td>
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<td>To allow more light</td>
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<td>49</td>
<td>ORCHARD GRANGE, 4 THE PARK, TWO DALES</td>
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<td></td>
<td>PRUNING OF BEECH</td>
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<td>Reasons: To increase light to garden</td>
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<td>To alleviate crossing branches</td>
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<td>To alleviate rubbing branches</td>
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<td>11</td>
<td>9 BULL LANE, MATLOCK</td>
<td>CONDITIONAL CONSENT</td>
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<td>PRUNING OF SYCAMORE</td>
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<td>Reasons: Minor branch breakage</td>
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<td>Significant epicormic growth</td>
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<td>General maintenance</td>
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<td>to reduce any potential hazard</td>
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<tr>
<td>35</td>
<td>79 CAVENDISH ROAD, MATLOCK</td>
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<td></td>
<td>FELLING OF TREES</td>
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<td>Reasons: Dying</td>
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<td>Light to garden</td>
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<td>To facilitate reconstruction of retaining</td>
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<td></td>
<td>wall and landscaping of garden</td>
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<tr>
<td>43</td>
<td>28 BANK GARDENS, MATLOCK</td>
<td>PENDING DECISION</td>
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<tr>
<td></td>
<td>FELLING OF SILVER BIRCH</td>
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<td>Reasons: Disproportionally large for garden</td>
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<td>Negative amenity value</td>
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<td>Blocks light to dwellings</td>
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<td>Leaves block guttering and drains</td>
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<td>Close to retaining wall</td>
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<td>Close to services</td>
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<tr>
<td>108</td>
<td>9 HACKNEY ROAD, HACKNEY</td>
<td>REFUSED</td>
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<td></td>
<td>FELLING OF SILVER BIRCH</td>
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<td>Reasons: Shading of garden</td>
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<td></td>
<td>Loss of views</td>
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<tr>
<td>23</td>
<td>1 BRICKFIELDS CLOSE, BOLEHILL</td>
<td>CONDITIONAL CONSENT</td>
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<tr>
<td></td>
<td>PRUNING OF ASH TREES</td>
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<td>Reasons: To address fear</td>
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<td></td>
<td>of the collapse of elongated limbs</td>
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<td>overhanging the neighbouring dwelling</td>
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<td></td>
<td>driveway</td>
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<td></td>
<td>To maintain the copse</td>
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<td>in a healthy and sustainable form</td>
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<tr>
<td>119</td>
<td>ST ELPHIN’S PARK, DARLEY DALE</td>
<td>PENDING DECISION</td>
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<tr>
<td></td>
<td>PRUNING &amp; FELLING TREES</td>
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<tr>
<td></td>
<td>Reasons: In the interests of Health &amp; Safety</td>
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<td>For the purposes of sound</td>
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<tr>
<td></td>
<td>arboricultural management</td>
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<tr>
<td>72</td>
<td>27 THE PARKWAY, DARLEY DALE</td>
<td>PENDING DECISION</td>
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<td></td>
<td>PRUNING OF TREES</td>
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<td></td>
<td>Reasons: To prevent snow damage</td>
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<tr>
<td></td>
<td>Outgrowing location</td>
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<tr>
<td></td>
<td>To improve light to garden</td>
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</tbody>
</table>
### NOTIFICATIONS OF INTENTION TO CARRY OUT WORKS TO TREES IN CONSERVATION AREAS:

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<tbody>
<tr>
<td>MATLOCK BANK</td>
<td>ST JOSEPH’S CATHOLIC PRIMARY SCHOOL, CHESTERFIELD ROAD, MATLOCK PRUNING &amp; FELLING OF TREES Reasons: Self-set trees Overgrown vegetation Overhead cables Distorted growth Leaning Overhanging footpath Obstructing site sign Leader growing into Leylandii Crossing branches Growing over the school Playground</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>MATLOCK BANK</td>
<td>YEW TREE COTTAGE, UPPERWOOD, MATLOCK BATH FELLING OF FIR Reasons: Excessive shading Top section broke off last year</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>WIRKSWORTH</td>
<td>CLARE COTTAGE/THE OLD COACH HOUSE, GATEHOUSE DRIVE, WIRKSWORTH FELLING OF BEECH Reasons: Poor condition of tree</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>MATLOCK BANK</td>
<td>ALL SAINTS VICARAGE, SMEDLEY STREET, MATLOCK FELLING &amp; PRUNING OF TREES Reasons: Unsafe Obscuring light to house Overhanging the roof</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>CROMFORD</td>
<td>CULVER CROFT, LEA ROAD, LEA BRIDGE WORKS TO TREES Reasons: Overcrowded Obscuring views To open up garden Affecting growth of other trees Excessive shading of driveway Slippery leaves Lop-sided Low canopy Weak fork Spindly Light to house</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>WAPPING NATURE RESERVE, CLIFTON ROAD, MATLOCK BATH POLLARDING OF ASH</td>
<td>PENDING DECISION</td>
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<tr>
<td>CONS. AREA</td>
<td>ADDRESS/PROPOSED WORKS</td>
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<tr>
<td>WIRKSWORTH</td>
<td>Reasons: Structural failure.</td>
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<tr>
<td>WIRKSWORTH</td>
<td>YOKECLIFFE HOUSE, WEST END, WIRKSWORTH</td>
<td>PENDING DECISION</td>
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<tr>
<td></td>
<td>PRUNING &amp; FELLING OF TREES</td>
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</tbody>
</table>
|            | Reasons: Foliage rather sparse  
|            | Heavily pruned in past  
|            | Overhanging the road  
|            | Vigorous tree  
|            | in confined space  
|            | Close to adjoining property  
|            | Squirrel damage  
|            | Growing above retaining wall  
|            | To allow other trees to develop |  |
| WIRKSWORTH | DALE WOOD, WEST END, WIRKSWORTH | PENDING DECISION |
|            | FELLING OF TREES |  |
|            | Reasons: To maintain longterm stability & continuity of the woodland |  |
| WIRKSWORTH | 11 WASH GREEN, WIRKSWORTH | PENDING DECISION |
|            | FELLING OF GOAT WILLOW |  |
|            | Reasons: Excessive shading  
|            | Poor location |  |
| LUMSDALE | MOORLAND VIEW, UPPER LUMSDALE, MATLOCK | PENDING DECISION |
|            | FELLING OF A SPRUCE & LARCH |  |
|            | Reasons: Not given |  |
| BOLEHILL | OAKER HOUSE, 41 THE LANES, BOLEHILL | PENDING DECISION |
|            | PRUNING OF TREES |  |
|            | Reasons: General Maintenance |  |
| RIBER | THE HERMITAGE, RIBER ROAD, RIBER | PENDING DECISION |
|            | PRUNING & FELLING OF TREES |  |
|            | Reasons: Diseased  
|            | Multi-stemmed poor quality  
|            | To create space for replanting  
|            | Close proximity to stone wall  
|            | To maintain the tree  
|            | To increase light through the canopy  
|            | To promote the health of trees and aid fruit production  
|            | To increase the light and usable garden space  
|            | Forestry trees too large for the garden that dwarf a large section of the garden  
|            | Unwanted self-set tree  
<p>|            | To provide space for the development of the neighbouring tree |  |</p>
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<tr>
<td>OLD MATLOCK</td>
<td>93 MATLOCK GREEN, MATLOCK PRUNING OF TREES Reasons: Not given</td>
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<td>MATLOCK BATH</td>
<td>CROW PIE COTTAGE, 7 ORCHARD ROAD, MATLOCK BATH FELLING OF 7 TREES Reasons: Self-set, non specimen trees Almost totally shading the lawn Two lean badly</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>YEW TREE COTTAGE, UPPERWOOD ROAD, MATLOCK BATH PRUNING OF TWO TREES Reasons: Not given</td>
<td>PENDING DECISION</td>
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<tr>
<td>MATLOCK BATH</td>
<td>ROCK WEIR, NEW BATH ROAD, MATLOCK BATH PRUNING &amp; FELLING OF TREES Reasons: Growing out of boundary wall To remove liability for damage to parked cars</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>WIRKSWORTH</td>
<td>DALE WOOD, WEST END, WIRKSWORTH FELLING OF TREES Reasons: Safety To allow other trees to develop</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>MATLOCK BANK</td>
<td>5 SMEDLEY STREET EAST, MATLOCK PRUNING OF BEECH TREES Reasons: Not given</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>BOLEHILL</td>
<td>OAKER HOUSE, 41 THE LANES, BOLEHILL FELLING OF HORSE CHESTNUT Reasons: Dying &amp; dangerous PRUNING OF TREES Reasons: Not given</td>
<td>PENDING DECISION</td>
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<tr>
<td>WIRKSWORTH</td>
<td>THE RECTORY, COLDWELL STREET, WIRKSWORTH PRUNING &amp; FELLING OF TREES Reasons: Growing out of stone wall To allow the wall to be repaired To give adequate clearance from the building</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>MIDDLETON-BY-WIRKSWORTH</td>
<td>15 WATER LANE, MIDDLETON FELLING OF ASH Reasons: Outgrown location Roots could interfere with retaining wall Trunk damaged as a result of a branch tearing out Concern could be diseased Health and safety as overhangs the road</td>
<td>NO OBJECTIONS</td>
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<tr>
<td>MATLOCK BANK</td>
<td>163 SMEDLEY STREET, MATLOCK FELLING OF THREE TREES Reasons: Spreading looming presence</td>
<td>NO OBJECTIONS</td>
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<td></td>
<td>Negative garden amenity value</td>
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<td>Poor shape as a result of previous pruning</td>
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<td>No amenity value</td>
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<td>Contributes to shading canopy</td>
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<td>Previously coppiced</td>
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<td>MATLOCK BANK</td>
<td>28 CHESTERFIELD ROAD, MATLOCK</td>
<td>NO OBJECTIONS</td>
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<td></td>
<td>PRUNING OF TREES</td>
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<td>Reasons: Maintenance of pollarded tree</td>
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<td>To prevent overhang</td>
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<tr>
<td>OLD MATLOCK</td>
<td>THE HARRISON ALMSHOUSES, 3 – 11A MATLOCK GREEN, MATLOCK</td>
<td>PENDING DECISION</td>
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<tr>
<td></td>
<td>PRUNING OF WEEPING ASH</td>
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<td></td>
<td>Reasons: To provide clearance from overhead cables</td>
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<tr>
<td></td>
<td>FELLING OF WEEPING ASH</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Fungal decay in the stem</td>
<td></td>
</tr>
<tr>
<td></td>
<td>FELLING OF CYPRESS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Light to properties</td>
<td></td>
</tr>
<tr>
<td>CROMFORD</td>
<td>DERWENT HOUSE, WILLERSLEY LANE, CROMFORD</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td></td>
<td>PRUNING OF TWO YEW TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Not given</td>
<td></td>
</tr>
<tr>
<td></td>
<td>FELLING OF THREE TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Leans over garden</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Suppressing adjacent tree</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Very close to building</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Causing heavy shading</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>27 DERBY ROAD, MATLOCK BATH</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td></td>
<td>FELLING OF TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Close proximity to street light</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Safety risk as dead</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>CAVENDISH HOUSE, 24 – 26 BANK ROAD, MATLOCK</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td></td>
<td>WORKS TO TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Outgrown its location</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Excessive shading of path</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Routine maintenance</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>58 WELLINGTON STREET, MATLOCK</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td></td>
<td>PRUNING &amp; FELLING OF TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Not given</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>TOR HILL HOUSE, 204 DALE ROAD, MATLOCK BATH</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td></td>
<td>PRUNING &amp; FELLING OF TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Not given</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>1 &amp; 2 BIRKLANDS, BRUNSWOOD ROAD, MATLOCK BATH</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td></td>
<td>FELLING OF TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Not given</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BATH</td>
<td>15 WELLFIELD COURT, MATLOCK</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td></td>
<td>FELLING OF SPRUCE &amp; WILLOW</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Not given</td>
<td></td>
</tr>
<tr>
<td>CONS. AREA</td>
<td>ADDRESS/PROPOSED WORKS</td>
<td>DECISION/COMMENT</td>
</tr>
<tr>
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</tr>
<tr>
<td>MATTLOCK BANK</td>
<td>23 RUTLAND STREET, MATTLOCK PRUNING OF OAK TREE</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>CROMFORD</td>
<td>21 BARNWELL LANE, CROMFORD PRUNING OF SYCAMORE</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>OLD MATTLOCK</td>
<td>ENDCLIFFE, 13 KNOWLESTON PLACE, MATTLOCK FELLING OF LABURNUM &amp; HOLLY</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>Wirksworth</td>
<td>LAND IN THE VICINITY OF GEORGE MINE, BOLEHILL ROAD, BOLEHILL PRUNING OF TREES FELLING OF THREE ASH TREES</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>MATTLOCK BANK</td>
<td>88 HOPEWELL ROAD, MATTLOCK FELLING OF 7 ASH TREES</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>Wirksworth</td>
<td>FRONTAGE OF THE MEMORIAL GARDENS, ST JOHN'S STREET, WIRKSWORTH PRUNING OF LONDON PLANE</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>MATTLOCK BATH</td>
<td>LOWER TOWERS, MASSON ROAD, MATTLOCK BATH FELLING OF SPRUCE</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>MATTLOCK BRIDGE</td>
<td>LAND TO REAR OF 147 DALE ROAD, MATTLOCK FELLING OF ASH</td>
<td>NO OBJECTIONS</td>
</tr>
<tr>
<td>LUMSDALE</td>
<td>NATDALE, UPPER LUMSDALE, MATTLOCK FELLING OF 17 LAWSON CYMPRESSES</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>CONS. AREA</td>
<td>ADDRESS/PROPOSED WORKS</td>
<td>DECISION/COMMENT</td>
</tr>
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</tr>
</tbody>
</table>
| MATLOCK BATH | STONEYDALE, HOLME ROAD, MATLOCK BATH  
FELLING OF TREES  
Reasons: Pushing retaining wall  
Leaning & close to neighbour’s property  
Fear of size in relation to neighbouring property | PENDING DECISION |
| MATLOCK DALE | 140 DALE ROAD, MATLOCK  
PRUNING & FELLING OF TREES  
Reasons: Concern about size in relation to property  
Poor specimen  
Low branch over neighbouring roof | PENDING DECISION |
| LUMSDALE | LAND TO THE REAR OF  
59 RIBER VIEW CLOSE, TANSLEY  
FELLING OF SYCAMORE  
Reasons: To improve light  
Overcrowded | PENDING DECISION |
| MATLOCK BATH | BEECHCLIFFE, UPPERWOOD ROAD, MATLOCK BATH  
PRUNING OF TWO ASH TREES  
Reasons: Blocking neighbour’s views and that of the built environment | NO OBJECTIONS |
| CROMFORD | LAND BETWEEN CROMFORD CHURCH AND CROMFORD MILL, CROMFORD  
FELLING OF YEW  
Reasons: Sever lean over the road | PENDING DECISION |
| CROMFORD | LAND TO THE NORTH OF THE STATION APPROACH, CROMFORD RAILWAY STATION, LEA ROAD, CROMFORD BRIDGE  
PRUNING & FELLING OF TREES  
Reasons: Risk to public  
Shows signs of movement  
Embankment stabilisation risk  
Defective branches | PENDING DECISION |
| MATLOCK BATH | THE FISHPOND HOTEL,  
204 SOUTH PARADE, MATLOCK BATH  
PRUNING & FELLING OF TREES  
Reasons: Garden restoration  
Dark shaded environment  
Potentially unstable  
Health & safety  
Growing from base of wall  
To improve stability & reduce risk of falling onto road or hotel  
Severely deformed  
Growing out of cliff | PENDING DECISION |
<p>| WIRKSWORTH | YOEKCLIFFE HOUSE, WEST END, WIRKSWORTH | PENDING DECISION |</p>
<table>
<thead>
<tr>
<th>CONS. AREA</th>
<th>ADDRESS PROPOSED WORKS</th>
<th>DECISION COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PRUNING OF A BEECH TREE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: To be consistent with consent to prune neighbouring trees</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BANK</td>
<td>4 ROCKSIDE MEWS, WELLINGTON STREET, MATLOCK</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td></td>
<td>FELLING OF TWO PINE TREES</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Severe storm damage Risk of limbs breaking in high winds Not safe to leave without companion tree</td>
<td></td>
</tr>
<tr>
<td>MATLOCK BANK</td>
<td>43 WELLINGTON STREET, MATLOCK</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td></td>
<td>FELLING OF PINE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reasons: Risk of limb failure in high winds Not safe to leave without companion trees</td>
<td></td>
</tr>
</tbody>
</table>

OFFICER RECOMMENDATION: That the report be noted.
CONSULTATIONS RECEIVED ON APPLICATIONS TO CARRY OUT WORKS TO TREES PROTECTED BY A DERBYSHIRE COUNTY COUNCIL TREE PRESERVATION ORDER:

<table>
<thead>
<tr>
<th>TPO NO.</th>
<th>ADDRESS/APPLICATION</th>
<th>DCC DECISION/COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>123</td>
<td>ROCK LODGE, 69 DERBY ROAD, CROMFORD PRUNING &amp; FELLING OF TREES Reasons: Potentially weak forks Clearance over the road To limit the spread of the tree To restrict the size To improve the shape of the crown To allow other trees to develop</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>88</td>
<td>LAND ADJACENT TO 36 PARK AVENUE, DARLEY DALE PRUNING OF LIME Reasons: Overhanging neighbouring drive</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>23</td>
<td>LAND TO THE REAR OF 8 BROOKLANDS AVENUE, WIRKSWORTH PRUNING OF OAK Reasons: Not given</td>
<td>CONDITIONAL CONSENT</td>
</tr>
<tr>
<td>35</td>
<td>BUNTING CROFT, WARDS END, STARKHOLMES PRUNING OF ASH Reasons: Branches in contact with building</td>
<td>CONDITIONAL CONSENT</td>
</tr>
<tr>
<td>88</td>
<td>ABBEY HOUSE, CHURCH ROAD, DARLEY DALE PRUNING OF TREES Reasons: To reduce weight and leverage Growing over another tree FELLING OF TREES Over crowded To allow other trees to develop Spindly Not very attractive Poor form Poor condition Top of the tree broken off Leaning Forked Suffering from “Bleeding Canker” Extensive decay in stem Almost dead</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>23</td>
<td>35 NAN GELLS HILL, BOLEHILL FELLING OF SYCAMORE Reasons: Relatively low amenity value</td>
<td>REFUSED</td>
</tr>
<tr>
<td>TPO NO.</td>
<td>ADDRESS/APPLICATION</td>
<td>DCC DECISION/COMMENT</td>
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<td>---------</td>
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</tr>
<tr>
<td></td>
<td>Removal would not be detrimental to the locality or its public enjoyment Out of scale with neighbouring trees Requiring repeated maintenance as outgrown location Restricts visibility onto the main road Falling branches are a danger to property, cars and people Excessive shading affecting trees, shrubs and windows Potential nuisance/danger to occupier and public from fallen leaves and excessive moss accumulation Potential for subsidence of surrounding properties, driveways, walls, the highway structure, drains and underground services. OR PRUNING OF THE SYCAMORE Reasons: To allow more light to windows To allow more light to other trees and shrubs To allow more light to surrounding gardens and properties To reduce the obstruction of paths, driveways and parking areas To reduce the height and spread of the tree and maintain a balanced shape</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>25</td>
<td>TOR HILL, 204 DALE ROAD, MATLOCK BATH PRUNING OF A BEECH Reasons: To provide clearance over the A6</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>88</td>
<td>10 BLAGDON CLOSE, DARLEY DALE FELLING OF LIME Reasons: Large cavity in base of tree with evidence of fungal infestation Partially decayed buttress root</td>
<td>CONDITIONAL CONSENT</td>
</tr>
<tr>
<td>25</td>
<td>GULLIVERS KINGDOM, TEMPLE ROAD, MATLOCK BATH PRUNING AND FELLING OF TREES Reasons: Self-set To clear branches from building Leaning over the roof Dead Distorting wall</td>
<td>PENDING DECISION</td>
</tr>
<tr>
<td>TPO NO.</td>
<td>ADDRESS/APPLICATION</td>
<td>DCC DECISION/COMMENT</td>
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</tr>
<tr>
<td>88</td>
<td>FIRTH RIXON, DALE ROAD NORTH, DARLEY DALE FELLING OF LIME TREE Reasons: Infected with Ustulina deusta</td>
<td>CONDITIONAL CONSENT</td>
</tr>
</tbody>
</table>

**OFFICER RECOMMENDATION:** That the report be noted.
PLANNING APPEAL - PROGRESS REPORT

Report of the Director of Planning & Housing Services

<table>
<thead>
<tr>
<th>REFERENCE</th>
<th>SITE/DESCRIPTION</th>
<th>TYPE</th>
<th>DECISION/COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/00656/FUL</td>
<td>Land opposite 52 Greenhill, Wirksworth</td>
<td>WR</td>
<td>Appeal dismissed – Copy of Decision Attached</td>
</tr>
<tr>
<td>13/00036/OUT</td>
<td>Highlands Cottage, Darley Dale</td>
<td>IH</td>
<td>Appeal dismissed – Copy of Decision Attached</td>
</tr>
<tr>
<td>ENF/12/00092</td>
<td>Junction of Back Lane &amp; Flash Lane, Darley Moor</td>
<td>WR</td>
<td>Appeal upheld with modifications – Copy of decision attached</td>
</tr>
<tr>
<td>12/00733/OUT</td>
<td>Land off Moor Croft, Chesterfield Road, Matlock</td>
<td>LI</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>13/00321/FUL</td>
<td>Lyndhurst, 96 Dale Road, Matlock</td>
<td>HH</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>12/00732/FUL</td>
<td>Longway Bank Wood, Longway Bank, Whatstandwell</td>
<td>IH</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>13/00443/FUL</td>
<td>10 Imperial Road, Matlock</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>ENF/12/00099</td>
<td>Tipsy Cottage, 14 Main Road, Darley Bridge</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>13/00231/FUL</td>
<td>Matlock Transport, Northwood Lane, Darley Dale</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>13/00453/FUL</td>
<td>The Bungalow, Stile Croft, Middleton</td>
<td>HH</td>
<td>Appeal allowed – copy of decision attached</td>
</tr>
<tr>
<td>13/00567/FUL</td>
<td>Newclose House, Barnwell Lane, Cromford</td>
<td>HH</td>
<td>Appeal being processed</td>
</tr>
</tbody>
</table>

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

OFFICER RECOMMENDATION:

That the report be noted.
Appeal Decision

Site visit made on 12 November 2013

by Elaine Worthington BA (Hons) MTP MUED MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2013

Appeal Ref: APP/P1045/A/13/2197583
Land opposite 52 Greenhill, Wirksworth, Matlock, Derbyshire, DE4 4EN

• 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 C Armstrong against the decision of Derbyshire Dales District Council.
• The application Ref 12/00656/FUL, dated 31 October 2012, was refused by notice dated 14 January 2013.
• The development proposed is erection of detached two-bedroom dwellinghouse.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application form indicates the site address to be land opposite 50 Greenhill. However, for the sake of accuracy and since it better describes the site, I have used the address of land opposite 52 Greenhill as indicated in the Design and Access Statement, Council’s Decision Notice and Appeal Form.

Main Issue

3. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Wirksworth Conservation Area.

Reasons

4. The appeal site comprises an outbuilding, planting beds and two greenhouses. It is within the Wirksworth Conservation Area which covers the historic centre of the market town, along with surrounding areas of countryside which form its backdrop. The site lies within the area of the ‘Puzzle Gardens’ identified in the Wirksworth Conservation Area Appraisal (Conservation Area Appraisal).

5. This part of the town developed as a result of the lead mining industry and the small plots were originally encroachments built on manorial waste ground. It is characterised largely by former miners’ cottages, some in terraces, many of which can be accessed only by the numerous footpaths which traverse the hillside. The footpaths and private gardens are enclosed by rubble limestone walls and views are afforded over the town and nearby countryside. The appeal site plays an integral role in defining the largely unchanged close knit and haphazard layout of the ‘Puzzle Gardens’, which contributes to the significance of the Conservation Area as a heritage asset.
6. Despite the land being within the registered title of 41 Greenhill the appellant does not consider the site to be a private garden, and argues that it is previously developed land having originally accommodated a communal washhouse. I accept that the site is privately owned, not publically accessible and appears to be currently unused. Nor is it formally defined or allocated as open space. Be that as it may, in practical terms it appears as a walled garden area. Although there is a lean-to structure which abuts the western retaining wall and two greenhouses on the site, it is essentially open. Correspondence from local residents indicates that it has historically served as the garden area to No 41 which is adjacent to the site.

7. I acknowledge that the Conservation Area Appraisal does not specifically identify the appeal site, or other garden areas, as important open spaces. Nor is there anything in principle which precludes the development of open spaces in Conservation Areas. Nevertheless, in my view the open areas and spaces between the buildings within this part of Wirksworth play an important role in the townscape. In particular gardens and open areas, some of which are detached and separated from the houses to which they belong, are a strong and unusual feature of the ‘Puzzle Gardens’ and an intrinsic component of the historic character and appearance of the Conservation Area. Given the closely developed built fabric these gaps provide a contrast to the surrounding buildings and relief to the tight pattern of development. The ad hoc locations of the open areas alongside the historic cottages are part of the local distinctiveness of this part of the town.

8. The appeal site is adjacent to the garden areas of Babington House, a Grade II* listed building. These adjoining gardens add to the feeling of openness in immediate vicinity, and the appeal site is viewed alongside this wider open area. It is seen primarily from the elevated footpath which runs next to the site. The footpath forms parts of the Wirksworth Heritage Trail, and although the Council raises no objections to the impact of the proposal on the trail, the site is looked down on from here and is evident in public views. This is the context in which the site is viewed. However, it is in itself a largely undeveloped area with its own sense of openness. Whilst it compliments the adjacent gardens, the appeal site is distinct from them. As such, I am not persuaded that the site borrows its sense of space from Babington House’s garden or that its openness is more pronounced as a result of the elevated nature of views from the footpath.

9. The existing outbuilding and greenhouses on the site would be removed, and I note the appellant’s view that the net increase in the amount of built footprint on the site as a result of the proposal would not be great (some 13 square metres). A private garden area would also be provided. Even so, the proposal would introduce two storey built development on to what is a currently substantially open area. The proposed house would be significantly larger and bulkier in form than the existing lean-to building and glass greenhouses and would cover most of the site. As a result the current sense of openness would be lost.

10. This would be to the detriment of the largely unchanged historic character of the area. The proposal would be clearly visible from public vantage points and would result in the loss of an open area which plays an important part in defining the quirky and unique character of the ‘Puzzle Gardens’. The role that the site plays in allowing elevated views from the footpath over the town, and
to the countryside beyond, would also be compromised by the construction of a house. That the site is currently overgrown and the buildings somewhat dilapidated does not alter my opinion.

11. I accept that the form and design of the house would be sympathetic to the appearance of neighbouring properties, characteristic of the local vernacular, and in keeping with other houses within the ‘Puzzle Gardens’. The rubble limestone walls would be retained and views of the site from the public domain would remain. I am also aware that, on balance, the Local Conservation Advisory Forum supported the principle of a small dwelling on the site, and understand that the loss of the existing historic outbuilding was not raised as a concern by the Council.

12. Although it adjoins a walled garden area of Babington House, the appeal site is separated from it by a retaining wall and is at a higher level. On this basis the Council considers that the proposal would have no significant impact upon Babington House and I see no reason to come to a different view. As such, I am satisfied that the proposal would preserve the setting of this listing building. I also understand that the proposal was subject to positive pre-application discussions, amended during the Council’s consideration of the application, and recommended for approval by officers to the Planning Committee.

13. Even so, it remains that since the proposal would result in the loss of an important open area it would undermine the special interest of the traditional townscape of the ‘Puzzle Gardens’, which is of significance to the area’s heritage. Paragraph 131 of the National Planning Policy Framework (the Framework) indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. Whilst the proposal would lead to less than substantial harm to the significance of the Conservation Area, the harm caused would nevertheless be material.

14. I conclude that the proposal would fail to preserve or enhance the character and appearance of the Wirksworth Conservation Area, and would adversely affect the significance of this designated heritage asset. It would therefore be contrary to Policies SF1, and H1 of the Derbyshire Dales Local Plan (Local Plan) which are permissive of new development as long as it preserves or enhances the character and appearance of the settlement, and respects the character, appearance and setting of the settlement. The proposal would also conflict with Local Plan Policy NBE21 which is permissive of proposals within or adjacent to a Conservation Area provided that they preserve or enhance the character and appearance of the area. Additionally it would be out of step with the one of the core planning principles of the Framework of preserving the significance of designated heritage assets.

Other matters

15. I note the appellant’s view that the Conservation Area Appraisal which was adopted in 2001 is out of date. Although this pre-dates the Framework, I have seen nothing to suggest that the evidence about the historic environment contained within it is out of date, or that its assessment of the special interest, character and appearance of Wirksworth is at odds with the aim of the Framework to preserve the significance of designated heritage assets.
16. The proposal would be sustainably located within the town and close to facilities and services and is considered acceptable by the Council in terms of its effect on the living conditions of nearby occupiers. I also note that despite the concerns of local residents, no objections were raised to the scheme by the Highway Authority with regard to parking or highway safety. Additionally I am aware that the occupiers of No 41 cannot use the site as a garden and have no dedicated amenity space. The Council raises no objections to the proposal on these grounds, and I acknowledge that there are examples of other houses without gardens and areas of publically accessible open space, including a playground, nearby. The absence of harm in these regards counts neither for, nor against the proposal.

17. The appellant considers the Council cannot demonstrate a five year housing supply. The Council disagrees. Since I am dismissing the appeal for other reasons it has not been necessary for me to consider this matter in detail. Nevertheless, bearing in mind paragraphs 49 and 14 of the Framework and the presumption in favour of sustainable development, I acknowledge that the proposal is considered available and deliverable by the appellant and would contribute to housing supply. Whilst this contribution would not be great, it weighs in favour of the proposal and is a public benefit of the scheme. However, in my view the adverse impacts of granting permission in this instance would significantly and demonstrably outweigh this benefit.

Conclusion

18. For these reasons, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR
Apartment Decision

Hearing held on 11 September 2013
Site visit made on 11 September 2013

by Victoria Lucas-Gosnold  LLB MCD MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government
Decision date: 29 October 2013

Appeal Ref: APP/P1045/A/13/2195013
Highlands Cottage, Bent Lane, Darley Dale, Matlock, DE4 2HN

• The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
• The appeal is made by Coverland UK Ltd against the decision of Derbyshire Dales District Council.
• The application Ref 13/00036/OUT, dated 15 January 2013, was refused by notice dated 20 March 2013.
• The development proposed is re-development comprising five large dwelling houses.

Decision
1. The appeal is dismissed.

Procedural Matters
2. The application was submitted in outline with all other matters, except access reserved. However, indicative plans were submitted with the application, together with other supporting documents. Those details have been taken into consideration in coming to a view on the proposal.

3. There is some dispute between the parties as to whether the Council issued their decision notice within the prescribed eight weeks. In this regard, I note that the Council validated the application on 23 January 2013 and that the eight week period expired on 20 March 2013. This was confirmed in the application acknowledgement letter sent by the Council to the appellant, dated 31 January 2013. Based on the information before me, the application was therefore determined by the Council within the eight week period and I have determined this appeal on that basis.

Main Issues
4. The main issues are:
   ▪ Whether the principle of the proposal is acceptable, having regard to local and national policies which seek to restrict development in the countryside;
   ▪ Whether there are protected species present on the appeal site which may be affected by the proposed development;
   ▪ The effect of the development proposed on highway safety;
   ▪ The effect of the development proposed on the special historic and architectural interest of the Grade II listed wall; and
- Whether the proposal would contribute to the supply of housing land in the area.

Reasons

Principle of the development proposed

(i) Settlement framework

5. The appeal site forms part of the substantial grounds associated with Highlands, a large, historic property situated on Whitworth Road. Highlands Cottage is situated on the other side of the site on Bent Lane and is of a more modern construction. The proposal would utilise the existing access at Highlands Cottage on Bent Lane.

6. The appeal site is outside of the settlement boundary of the village of Darley Dale, and therefore within the countryside. As such policy SF4 of the Derbyshire Dales Local Plan (Adopted 2005) (LP) applies. The policy is permissive of development in the countryside providing certain criteria are met. These include that the development is required to serve the essential requirements of agriculture, forestry and outdoor sport or recreation (other criteria are listed). The appeal proposal would not meet the exceptions listed in policy SF4.

7. Policies H4, H12 and H13 of the Local Plan relate to the provision of affordable housing on sites outside of settlement frameworks and in rural areas. The Design and Access Statement refers to the need for the proposal to provide 33% affordable housing (1.65 units) in line with the requirements set out in the Council’s Supplementary Planning Document ‘Affordable Housing’ (Adopted July 2006). The appellant’s preference is for off-site provision to be made in the form of a financial contribution on the basis that on-site provision would not be practicable. Although the Council disputes this, even if I were to accept the appellant’s position, there is no mechanism before me (such as a s.106 obligation) that would ensure the delivery of a financial contribution for the off-site provision of affordable housing. I therefore have no way of being sure that this element would be delivered, were the appeal to succeed. Accordingly, I attach limited weight to this consideration.

8. Paragraph 55 of the National Planning Policy Framework (the Framework) states, among other things, that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. These include the essential need for a rural worker to live permanently at or near their place of work in the countryside (other circumstances are listed). Policy SF4 is therefore largely consistent with the Framework in this regard.

9. Notwithstanding that the appeal site is outside of a settlement framework, it is the appellant’s case that the appeal site is sustainable, comprises previously developed land, is suitable for housing and is justified in light of the housing land supply situation in the local area. I shall consider the issue of housing land supply separately under the heading below.
(ii) Sustainability

10. Although the site is outside of the settlement framework of Darley Dale, is close to the village itself. There are a range of service in the village including a bus stop (with regular services to major centres), post office, bank, shop and Doctor’s surgery. These are not clustered together in a centre as such, being somewhat spread out along the main A6 road which runs through the village. I therefore consider it likely that Darley Dale would be capable of meeting the basic day to day needs of future occupants of the proposed dwellings.

11. There was some discussion during the hearing as to whether the appeal site was within a reasonable walking distance of the village during which local residents took opposing views. There is a pavement which runs along the length of Whitworth Road which connects the village with the site, although as the proposed accesses would be on Bent Lane a further short section would not have a pavement. Due to the topography of the area, the road slopes steeply upwards from the village and there is a further steep section up Foggs Hill in order to reach Bent Lane itself. Taking into account the distance and steep walk up from the village, I would be inclined to agree with those residents who suggested that the walk would only be undertaken on a regular basis by the reasonably fit and dedicated walker. It therefore follows that future occupants of the proposed dwellings would in reality drive either to the village, the nearby town of Matlock or further afield in order to access goods and services. Therefore, based on the information before me, I am not convinced that the site would be sustainable in that future occupants would be reliant on cars.

12. There was some debate during the hearing as to the status that should be accorded to the Council’s emerging local plan, in particular the proposal to include the nearby village of Northwood within a defined settlement boundary and the implications this may have for the appeal site. However, given that the plan is at an early stage and has unresolved objections (particularly in relation to this issue), I consider that very limited weight should be attributed to the emerging local plan at this stage.

(iii) Previously Developed Land

13. There are a few buildings on the appeal site such as sheds, garages and an outbuilding (in addition to the two existing dwellings). Nevertheless, the site is a residential garden and as such is specifically excluded from the definition of previously developed land in Annex 2 of the Framework. It is therefore a greenfield site for the purposes of planning policy. However, there is nothing in the Framework that rules out the development of greenfield sites. This is now merely a factor which no longer weighs in favour of the development.

(iv) Character and appearance

14. Although not raised as an issue by the Council, several local residents have raised concerns regarding the effect of the proposed development of the appeal site itself on the character and appearance of the area. Whilst the site address given states Darley Dale, the site is better described as being within the Darley Hillside area. Whereas Darley Dale has several modern housing estates visible from the highway, within Darley Hillside evidence of development is much sparser. Large mature trees and shrubs line the highway and the area has a secluded, wooded feel consistent with that of mature parkland. Larger dwellings tend to sit in expansive, spacious grounds and thus blend well with
the arcadian character of the area. The appeal site in its current form reflects this pattern of development and comprises an expansive garden (approximately 1.9 hectares). There are a series of open vistas within the garden looking out towards the hills and other more secluded, wooded areas stocked with mature trees and shrubs. In its existing form, the appeal site has a pleasant, arcadian feel which contributes positively to the character and appearance of the area. Whilst the garden may not be visible from the highway, due to the high Grade II listed boundary wall that encloses it, private spaces are equally as important in contributing to patterns of development and influencing the character and appearance of an area.

15. The proposal would see the construction of five dwellings in the existing garden area. Although scale, design and layout are reserved matters, information submitted with the application indicate that five large dwellings would be built as part of the proposal. The proposal would see the loss of large parts of the garden as a result. Although the indicative plans show that the proposed plots have been designed to have regard to the natural boundaries within the garden, the proposal would inexorably alter the existing mature parkland character. This would significantly detract from the arcadian nature of the site and harmfully effect the positive contribution it makes to the character and appearance of the area.

16. I therefore consider that the proposal would be significantly harmful to the character and appearance of the area. Paragraph 64 of the Framework states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. I have considered the effect of the proposal on the Grade II listed wall under the separate heading below.

(v) Overall conclusion on the principle of the development proposed

17. The appellant has referred to an extant planning permission for a garage / outbuilding in association with Highlands. If implemented, this scheme would increase the level of development on the site although it would be of a considerably more modest scale than this appeal proposal. I also note the intention to either convert or replace the large outbuilding to create one of the proposed dwellings. However, even taking that into account, the level of development proposed would still be substantially larger than the existing situation. Therefore, these considerations do not outweigh the harm I have identified.

18. Drawing matters together, the appeal site is outside of a defined settlement boundary. I have also found that the proposal would not be in a sustainable location and would be harmful to the character and appearance of the area. The site is also greenfield, which is a neutral consideration and does not weigh in favour of the proposal. Accordingly, I conclude that the principle of the proposal would not be acceptable, having regard to local and national policies which seek to restrict development in the countryside. The proposal would therefore conflict with policies SF4, H4, H12 and H13 of the Local Plan and paragraphs 55 and 64 of the Framework.

Protected species

19. Derbyshire Wildlife Trust (DWT), in their advisory capacity, recommended to the Council at application stage that the appellant be requested to provide
additional information in order to identify any ecological effects associated with the proposed development. The request was made on the basis of the potential for the site to support protected species including bats, reptiles and badgers.

20. The site is within a rural setting and includes a number of features such as mature trees and shrubs. There is also a large outbuilding on the site which would either be renovated or demolished as part of the proposal. I therefore acknowledge that the site’s characteristics are likely to provide a supportive habitat for wildlife and that the proposal may result in some changes to the existing habitat. However, DWT’s letter is clear that no site visit was undertaken to inform their response and no reference is made to any specific data such as records of protected species being present in the area. A local resident did refer to having seen bats in the general area. However, I cannot be certain that those bats were present on the site or using it as a foraging area.

21. Circular 06/2005\(^1\) is clear that “bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development” (Part IV, paragraph 99). Therefore on the basis of the information before me, I am not convinced that there is a reasonable likelihood of protected species being affected by the proposed development. Accordingly I conclude that there would be no harm in this regard.

22. The proposal would therefore not conflict with policy NBE5 of the LP which, among other things, states that planning permission for development likely to have a direct or indirect adverse impact upon species protected by law or identified as nationally rare will only be granted if it can be demonstrated that there is an overriding need for the development, and, where necessary, mitigation and/or compensatory measures can be put in place that allows the status of the species to be maintained or enhanced.

23. Ensuring there would be no harm to breeding birds as a result of the development proposed is a matter that could be addressed by conditions, were the appeal to succeed.

**Highway Safety**

24. The proposed development would utilise two existing access points onto Bent Lane both of which have been created by openings in the Grade II listed boundary wall. The Highways Authority has stated that both accesses are substandard and has requested that visibility splays be provided for both accesses in both directions. The dimensions would be 2.4 metres (set back) by 43 metres. Alternatively, the wall could be reduced in height to no more than 1 metre for a length of 43 metres. Before considering the effect of the proposed accesses on the listed wall, I shall first deal with whether I consider the improvements sought by the Highways Authority are necessary.

25. The first access, which currently serves Highlands Cottage itself was allowed at appeal\(^2\). The second access is close to the junction with Foggs Hill. Both accesses are approximately the width of one car. It is proposed to utilise the

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\(^1\) *Biodiversity and geological conservation – statutory obligations and their impact within the planning system*

\(^2\) **APP/P1045/E/05/1175201 (2006)**
first access for four dwellings (plots one to four) and the second access for one dwelling (plot five).

26. The appeal site is boarded by a high, listed wall which is over 3 metres in height. The second access is a gated opening in the existing wall. During the site visit I was able to observe that, due to the height and thickness of the wall, and its proximity to the highway, vehicles emerging from that access would have to pull onto Bent Lane itself before being able to achieve clear sight lines in either direction.

27. There was some discussion at the hearing as to whether cars travelling along Bent Lane would be travelling at a fast speed along Bent Lane. The lane is a narrow, single track, with overhanging vegetation and there are several bends in close proximity to the site. The lane is subject to the national speed limit (60 mph) although given its characteristics I consider that most prudent motorists would travel considerably slower than this. Nevertheless, given the narrow width of the lane, vehicles travelling along it would have little opportunity to avoid a vehicle emerging from the access, even if travelling at a modest speed and this gives rise to highway safety concerns.

28. Foggs Hill is a steep narrow lane which also has restricted visibility due to the boundary wall to the left (in the direction of the second access) for vehicles emerging onto Bent Lane. Given the proximity of the second access to the Foggs Hill junction and the narrow width of Bent Lane, I am in agreement with the Highways Authority that this access is severely substandard and that the visibility splays would be necessary.

29. I understand that the first access was constructed in accordance with the scheme allowed at appeal, including the specification of the visibility splays. The wall has been set back from the road and angular site lines have been created in both directions (along a 16 metre length of wall). In this regard, the visibility splays that were created can therefore be considered sufficient to cater for vehicle trips associated with the occupants of Highlands Cottage. Nevertheless, the listed wall is also approximately 3 metres high at this point, substantial in width and in close proximity to the highway. There is also a blind bend in the lane to the left of the access when emerging from the site.

30. The proposal would see an increased use of the access, which would serve five dwellings (including the existing cottage). There would, therefore be a consequent increase in cars using the access. The plans describe this access as ‘modified’. However there is no mention of whether the width of the existing access would be increased as a result of the development proposed, although at the hearing the appellant indicated that this was not the intention.

31. As previously stated, the first access is approximately the width of one car. Taking into account the height and width of the listed wall and its proximity to the highway, in combination with the blind bend in the lane to the left of the site, I also consider that the existing visibility splays would need to be adjusted in line with the highway authorities recommendation.

32. Ensuring that the necessary visibility splays are achieved for both accesses is a matter that could be addressed by the imposition of conditions, were the appeal to succeed. Although, due to the proximity of the second access to the junction with Foggs Hill, I am not convinced that they could in reality be achieved in that direction. In any event, the implementation of this
The Grade II listed wall

33. The necessary visibility splays would require the partial demolition and re-building of sections of the listed wall. The wall is a prominent, attractive feature in the local area. Although it may be sinuous in nature at points, overall it is a strong linear feature that defines the site and is highly visible from the highway. Indeed the listing schedule refers to the walls as a ‘conspicuous feature’ of Darley Hillside. In particular, it is the substantial height of the wall and the fact that only a few openings have been created in it which contribute to its special architectural interest.

34. The section of the wall that would have to be either re-aligned or partially demolished would be extensive (approximately 43 metres in both directions for both accesses) and the proposal would therefore be significantly harmful to the walls appearance as a result. This is particularly so if the wall were to be reduced from its current height of 3 metres down to 1 metre along a length of 43 metres.

35. I acknowledge that the previous appeal scheme did allow an opening in the wall and visibility splays to be created. However that scheme affected only a 16 metre section of the wall, which is much smaller than 43 metres. I have taken into account the wall’s sinuous alignment and that elements of the visibility splay would incorporate limited sections of the verge along Bent Lane. However these considerations do not lessen the harm to the wall that I have identified.

36. Accordingly, I conclude that the proposal would be significantly harmful to the special historic and architectural interest of the Grade II listed wall. The proposal would therefore conflict with policies NBE16 and NBE17 of the Local Plan which state, among other things, that for development affecting a listed building, planning permission will only be granted where it does not have an adverse impact upon its special character or setting or in the case of alterations and extensions to a listed building, planning permission for development will only be granted where the historic form of the building is retained and any architectural or historically important elements of the building, are retained in largely unaltered form.

37. Given the visual prominence of the listed wall in the surrounding area, the contribution it makes to the local historical context and the extent of the modifications that would be required to achieve the visibility splays, the harm to the listed wall’s significance as a Heritage Asset would be substantial, as defined in the National Planning Policy Framework (the Framework), paragraph 133. The proposal would provide five new houses and the appellant also states that the extensive grounds are too large for one household to maintain and that the proposal would ensure a beneficial use of the site. However, these considerations do not amount to a public benefit that would outweigh the harm that I have identified. The proposal would therefore conflict with the Framework which states, among other things, that the desirability of new development making a positive contribution to local character and distinctiveness should be taken account of (paragraph 131).
Housing Land Supply

38. It is the appellant’s position that, notwithstanding whether or not the principle of the proposed development is acceptable, the Council is unable to demonstrate a five years supply of housing land in accordance with the Framework. Specifically paragraph 49 of the Framework states, among other things, that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

39. Paragraph 47 of the Framework states, among other things, that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period). Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

40. Both parties have submitted extensive evidence on this issue and there was much discussion on the subject at the hearing. There is agreement between the parties that the most up to date housing requirement figure for the area is that of the now revoked East Midlands Regional Plan (2009) (RP). Policy 13a of the RP states that over the plan period (2006 – 2026), the Council should provide 4000 dwellings at an annual rate of 200 dwellings per annum. The RP also states that account can be taken of housing provision that occurs within the Derbyshire Dales part of the Peak District National Park in meeting this requirement. The Council have submitted several tables illustrating various development assumptions which show that, based on the RP requirement, the Council can demonstrate that they have a five-year Housing Land Supply (HLS) with a 5% buffer in place.

41. The appellant has drawn my attention to the various different HLS figures that the Council have referred to over the years. Essentially stating that the Council’s approach is inconsistent. However, I note that the figures referred to cover a wide date range. Specifically, the letter from the Council’s planning policy manager is dated 2011, whereas the letter from the Council’s Chief Executive is dated 2013. Up to date figures on HLS are, by their nature, a ‘snap shot’ in time. Changing figures over several years would seem to me to be an indication that the Council is continually monitoring and reviewing the position in line with the advice in the Framework to update supply (paragraph 47). Based on the information before me, I therefore consider the Council’s approach is not inconsistent or unreasonable.

42. The data does show that since 2006, net housing completions have varied over time. In this regard, the Council have acknowledged that rates have declined in recent years. In light of the recent economic recession, this is not a circumstance specific to the area and is a wide spread issue affecting the wider country. Data produced by the Council does show that there has been an increase in recent completion rates. Based on the information before me, there is little substantive evidence to suggest that the peaks and troughs that will naturally occur in completion rates will not balance out over the plan period. As such, the appellant confirmed at the hearing that he was content to accept
that the requirement to provide a 5% buffer was acceptable as opposed to a 20% buffer in cases where there has been a record of persistent under delivery of housing (paragraph 47).

43. The Framework is clear that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years (Footnote 11, Paragraph 47).

44. The appellant’s agent has referred to several planning applications which he has personally been involved with and that he now considers will not be delivered due to various constraints. Whilst that may be the case, I am not convinced that such anecdotal observations equate to the ‘clear evidence’ required by the Framework. In any event, I consider that implementation issues on a small number of sites would be unlikely to greatly affect the overall level of housing land supply across the Council’s area over a five year period. For the same reasons, deliverability issues affecting a small number of sites cannot reasonably be said to call into question the deliverability of all sites with planning permission that have been included in the Council’s five-year supply.

45. Other planning applications have also been referred to where the Council’s assumptions on the rate of completions are considered to be optimistic. Specifically, the appellant has questioned the completion rates of the Cawdor Quarry site based on historic performance. Whilst not accepting the appellant’s case, the Council did produce data at the hearing omitting the site from its calculations. The data shows that even if the site is discounted, the Council is able to demonstrate a five-year supply of housing land plus the required 5% buffer.

46. The appellant confirmed at the hearing that he withdrew his objection to the former St. Elphin’s School site (contributing 90 units) being included in the Council’s calculations.

47. Therefore, based on the information before me, there is no clear evidence to suggest that the majority of sites with planning permission that have been included in the Council’s five year HLS will not be delivered within five years. I am therefore not convinced that a precautionary 10% discount should be applied to sites with planning permission which have been included in the Council’s calculations for a five year supply of housing land.

48. The appellant has also queried the inclusion of sites within the five-year supply which have been identified in the Council’s emerging local plan and objects to this on the basis that the plan attracts limited weight. However, the Council was able to clarify at the hearing that only two sites have been included from the emerging local plan one of which has a live planning application and the other has had planning permission approved for housing. Therefore, having regard to the Framework, it seems a reasonable approach to include these sites within the five year supply.

49. The appellant also disputes whether windfall sites should be counted in the five-year supply. However, the Framework is clear that an allowance for windfall sites may be made in the five-year supply if there is compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply (paragraph 48).
50. The Council’s Local Plan was adopted in 2005 and did not include any housing land allocations. Therefore, in effect, all housing completions since then have been windfall sites. Based on the information before me, I consider that the Council are able to demonstrate that windfall sites have been consistently available. It is therefore reasonable to assume that such sites will continue to become available in the future.

51. Accordingly, I conclude that the Council is able to demonstrate a five-year supply with an additional 5% buffer in line with the requirements of the Framework. In light of this, the extent to which the proposed development would contribute five additional dwellings to the housing land supply for the area would not outweigh the harm that I have identified above.

Conclusion

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

Victoria Lucas-Gosnold

INSPECTOR
APPEARANCES

FOR THE APPELLANT:
Andrew Daley Coverland UK Limited
Roger Yarwood Roger Yarwood Planning Consultant Ltd

FOR THE LOCAL PLANNING AUTHORITY:
Paul Wilson Director of Planning and Housing Services, Derbyshire Dales District Council
Gareth Griffiths Senior Planning Officer, Derbyshire Dales District Council

INTERESTED PERSONS:
Barry Mellor Sycamore Cottage (Also representing the Darley Hillside Residents Association)
Brian Sunderland Stancliffe Hall
Ann Calladine Spring Cottage

ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING:

BY THE APPELLANT:
- Appellant’s list of appendices:
  1. Letter from chief Executive 28/04/2013
  2. Letter from Planning policy manager 10/05/2011
  3. Strategic Housing Land Availability Assessment October 2011
  4. Planning Policy Comments 06/12/2011
  5. LPA Appeal Statement April 2012
  6. (A) Decision Notice 13/00202 (B) Decision Notice 08/00590
  7. Press report on Cawdor Quarry Development 03/05/2012
  8. Local PLAN Inspectors Letter 15/12/2004
  9. (A) LPA’s analysis of village facilities (B) Allocated site at Tansley
  10. Appeal decision granting Listed building consent for vehicular entrance to Highlands Cottage

BY THE LOCAL PLANNING AUTHORITY:
- Copy of the Council’s Proposals Map showing the site in relation to the settlement boundary for Darley Dale
- Derbyshire Dales Net Dwelling Completions 2006-2013
- Table 1: Derbyshire Dales Housing Land Supply 2013-2018 (Excluding Any Windfall Allowance)
- Table 2: Derbyshire Dales Housing Land Supply 2013-2018 (Including Discounted Windfall allowance @ 50 per annum x 5 yrs)
- Table 3: Derbyshire Dales Housing Land Supply 2013-2018 (Including Discounted Windfall allowance @ 50 per annum 5 yrs and including Appellants Disputed Site Assumptions)
- Schedule of sites under construction and not commenced at 31st March 2013
- Derbyshire Dales Local Plan Review Report of the Inspector
- Decision notice 06/00321/FUL
- Appeal Decision Ref: APP/B0610/A/06/2021135 Dated 20 June 2007
- Audley Retirement Villages
- Retirement Villages – How It Works
- Frequently Asked Questions – Audley Retirement Villages
- Letter from the highways authority 'Proposed Residential Development at highlands Cottage, Bent Lane (NC), Darley Dale for Coverland UK Ltd
- Strategic Policy 8 – Strategic Housing Development of the Derbyshire Dales Local Plan – Pre Submission Draft (June 2013)
Appeal Decision

Site visit made on 15 October 2013

by John Whalley

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

Decision date: 31 October 2013

Appeal refs: APP/P1045/C/13/2196378-79
Flash Lane, Darley Moor, Matlock DE4 5LJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Derbyshire Dales District Council.
- The appeals are made by Mr A Le Gallez, (ref: APP/P1045/C/13/2196378), and Mrs F Le Gallez, (ref: APP/P1045/C/13/2196379).
- The notice was issued on 6 March 2013.
- The breach of planning control as alleged in the notice is the material change of use of the land to use for the stationing of a residential chalet for the purposes of human habitation.
- The requirement of the notice is to remove the chalet from the land.
- The period for compliance with the requirement is 28 days.
- The appeals are proceeding on the grounds set out in section 174(2)(c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The enforcement notice is varied and upheld

Appeal site

1. The appeals concern what the enforcement notice described as a chalet used for residential purposes sited on a field in open countryside north-west of Matlock. The chalet provides a residential unit with bedrooms, a kitchen, bathroom and a sitting room. Mr and Mrs Le Gallez, the Appellants, and their son live in the unit.

2. There is a large partly erected agricultural building close by. This building was the subject of the prior approval procedure, (Council’s ref: 12/00204/AGR, determined on 10 May 2012), for the erection of a 5 bay agricultural building for dry storage of hay and associated equipment. Two bays had been built at the time of my site visit.

The appeals on ground (c)

3. Mr Le Gallez said the development which had taken place was permitted by the Town and Country Planning (General Permitted Development) Order 1995. He referred to Part 4, Class A and to Part 5, Class A to Schedule 2 to the Order in support of the appeals. The chalet, said to be a caravan, was needed on site while they were erecting the agricultural building. Mr Le Gallez said they needed to be on hand while the building work was going on, to secure the site and to prevent any theft of materials.
4. The Council said Mr and Mrs Le Gallez were occupying the chalet as a permanent dwelling. The intention of the Part 4 Order concession was that the development permitted would typically be huts and plant required in connection with a construction project. It was unlikely the wording could be stretched to cover temporary living accommodation for people temporarily displaced from their homes by new works. Indeed, there was no temporary displacement of the Appellants from their home.

5. The Council also said the site works appeared to be a finished construction. But Mr Le Gallez’s said 3 more bays were to be added to the 2 already built. He had merely fixed a temporary end wall to the uncompleted building before going on to build the next bays. I saw newly dug foundations and steel beams and stanchions stored at the southern end of the agricultural building. The Council accepted that the building on site was less than half that allowed under the notification procedure. So the Appellants’ case is not lost on that point.

6. Part 4, Class A to Schedule 2, to the Town and Country Planning (General Permitted Development) Order 1995 as amended says that the provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land is permitted development. It goes on to say, amongst others, at A.2, that development permitted by Class A is subject to the condition that, when the operations have been carried out, any building, structure, works, plant or machinery permitted by Class A shall be removed.

7. In my view, the Council are right to say that Part 4, Class A does not help the Appellants. Whether or not the appeal residential unit is a chalet or a caravan, does not affect the application of Part 4. Part 4, Class A deals with deals with temporary buildings, moveable structures, works, plant or machinery. It does not permit a material change of use of land, temporary or otherwise. The notice alleges the change of use of the land to a residential use. The lawful use of the land is agricultural. A change of use to residential is therefore unlawful. There is nothing in Part 4, Class A that permits such a change of use.

8. Part 5 of the Order, dealing with caravan sites at Class A, permits the use of land other than a building, as a caravan site in the circumstances referred to in paragraph A.2, (those specified in paragraphs 2 to 10 of the First Schedule to the Caravan Sites and Control of Development Act 1960). That includes, (para. 7), where a caravan site licence is not required on agricultural land where accommodation is needed during a particular season for a person or persons employed in farming operations on land in the same occupation. It also includes land on which building or engineering operations are being carried out, if that use is for the accommodation of a person or persons employed in connection with the said operations, (para. 9).

9. Mr Le Gallez’s said his family were living in a caravan, not a chalet. Although the evidence on the point was limited, he may be right. The “chalet” has been assembled from twin unit sections of mobile homes fixed together. The Council did not argue that the chalet was not a caravan within the
statutory definition of a caravan in the Caravan Sites Act 1968.

10. On the assumption that the appeal chalet is a caravan, no case was made that it was needed to accommodate a person or persons employed in farming operations during a particular season, (para. 7, First Schedule of the 1960 Act).

11. I look at any justification for someone needing to live on the site while building operations are going on.

12. Firstly, the slow progress of erecting the agricultural building is stretching credulity as to any on-going need for someone to live on the site. The prior approval decision was issued some 18 months before my site visit. The agricultural building had been less than half completed when I was there. Mr Le Gallez was right to say that he had 5 years in which to complete the building, (Condition A.2(2)(a)(vi)(aa)). However, although large, a basic structure such as that under construction is, in my view, capable of being built in a matter of a few weeks. Funds may be short. But construction cannot be spread over many months or even years whilst claiming a need to live on site all that time when there is minimal or no building activity. The concession only applies to “land on which building or engineering operations are being carried out”. “Being carried out” suggests to me just that, not a situation where works which could take a few weeks might be spread out over years.

13. Another problem for Mr and Mrs Le Gallez is that their occupation of what is a residential unit, which I saw provides comfortable accommodation for family living, does, as the Council submitted, go some way beyond the purpose of the Order concessions. The large size of the unit, (259 cubic metres, according to Mr Le Gallez), and its use as a family home and office for his developing agricultural business, showed it is not genuinely nor only in being used in connection with the erection of the agricultural building.

14. The intentions of Mr and Mrs Le Gallez are important in these considerations. It was for them to show the use of the residential unit was to be temporary. That is, while the agricultural building was being erected. In my view, that was not shown. Rather, whilst Mr Le Gallez said the unit was temporarily sited for temporary accommodation while he built the barn, he also said he was a farmer with a developing agricultural business on the adjoining land. Evidence of that, including a free range egg business, was apparent on the land and inside their home.

15. My conclusion is that although the presence of the Le Gallez family living in the appeal residential unit close to the agricultural building under construction does afford security and convenience, I do not think it is either genuinely required or entirely occupied for that purpose. The unit is the family’s home, perhaps temporarily sited at least as much for the purpose of trying to establish and prove an agricultural business as for helping with erecting the agricultural building. The 2 constructed bays of the agricultural building looked to be capable of being closed up and secured, substantially diminishing any need for anyone to be on the site full time while the remaining 3 bays are built.

16. I conclude that the residential unit on the appeal site does not benefit
from development permitted by either Parts 4 or 5 to Schedule 2 of the 1995 Order. The appeals on ground (c) fail.

The appeals on ground (f)

17. An enforcement notice should set out the steps required to be taken, or the activities which must cease, to achieve, wholly or partly, the purposes of either:
   (a) remedying the breach of planning control. That is making any development comply with the terms of any planning permission, discontinuing the use of any land, or restoring the land to its condition before the breach took place; or,
   (b) remedying any injury to amenity caused by the breach.

18. The Council’s reason for serving the enforcement notice said, “The unauthorised use of the Land, in open countryside for the siting of a residential chalet not reasonably necessary for the purposes of agricultural on the said Land in inherently unwarranted, unsustainable, encroaching and harmful to the character and appearance of the countryside.”. So, in this case, the issue is one of harm to amenity. I need to consider whether the step required to be taken exceeds what is necessary to put an end to that harm to amenity. It is not for me to deal with planning merits, the degree of harm, nor to have regard to planning policy in the context of a ground (f) appeal where there is no ground (a) appeal.

19. Mr Le Gallez’s asked that there should be no enforcement action until the barn was finished. That is a matter for the ground (g) appeal, or it amounts to a request to withdraw the notice until the expiry of 5 years from the date of notification of the decision on the prior notification procedure.

20. Neither is in my view realistic. In order to bring an end to any harm caused to amenity by the siting of the appeal residential unit in this part of the countryside, the notice’s requirement to remove the chalet from the land is relevant and necessary. It does not go beyond that necessary to remedy the breach of planning control. I will not delete or change the requirement. The appeals on ground (f) fail.

The appeals on ground (g)

21. Mr Le Gallez said it had taken 9 months to set up at Flash Lane. It would take him the same amount of time to unravel the agricultural business. The period for compliance of 28 days was much too short. I agree. Although it would not take long to dismantle and remove it, the appeal residential unit is the home of Mr and Mrs Le Gallez and their son and the centre of their emerging agricultural business. I consider it reasonable to allow them more time to make other arrangements, or pursue another avenue, possibly with the Local Planning Authority. I increase the period for compliance to 6 months. The appeals on ground (g) succeed to that extent.

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22. The enforcement notice is varied by the deletion of the words “28 days” in line 3 of para. 5 on page 1 of the notice and the substitution therefor of the words “6 months”. Subject to that variation, I dismiss the appeals and uphold the
enforcement notice.

John Whalley

INSPECTOR
Appeal Decision

Site visit made on 26 November 2013

by Siobhan Watson BA (Hons) MCD MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 December 2013

Appeal Ref: APP/P1045/D/13/2207515
The Bungalow, Stile Croft, Middleton By Wirksworth, MATLOCK, Derbyshire, DE4 4NJ

- 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 David Potter against the decision of Derbyshire Dales District Council.
- The application Ref 13/00453/FUL was refused by notice dated 30 August 2013.
- The development proposed is a first floor extension and the erection of a rear balcony.

Decision

1. The appeal is allowed and planning permission is granted for a first floor extension and the erection of a rear balcony at The Bungalow, Stile Croft, Middleton By Wirksworth, MATLOCK, Derbyshire, DE4 4NJ in accordance with the terms of the application, Ref 13/00453/FUL, dated 22 June 2013, and the plans submitted with it, subject to the following conditions:

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

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; proposed roof plan; proposed east facing elevation; proposed first floor plan; south facing elevation (proposed); proposed north and west facing elevations.

   3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted, including those of the balcony, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main issue

2. The main issue is the effect of the proposed development upon the character and appearance of the area and street scene.

Reasons

3. Stile Croft is predominantly characterised by 2-storey dwellings and as the bungalow is located between adjacent 2-storey buildings the increase in height would not look out of place.

4. Many of the houses in the immediate vicinity are constructed of stone or of materials that look like stone. However, there are also dwellings in the area
that are faced in render and brick. Therefore a variety of construction materials exist in the environs of the appeal site.

5. The appellant wishes to use timber cladding as it would be difficult to find a good match with the existing imperial pre-cast concrete “grit-stone” blocks. The use of a contrasting material would avoid a poor match of blocks.

6. I acknowledge that timber cladding is uncommon in the vicinity, nevertheless, because there is a variety of facing materials used nearby, and because there is already some timber cladding on the bungalow itself, I do not consider that timber would necessarily look out of place providing that a suitable shade and finish is chosen.

7. The fact that the balcony would be an unusual and visible feature in the area does not in itself make it unacceptable, especially as there is a wide variety of architectural styles nearby. It would be a lightweight, glazed structure and positioned in a balanced central position on the rear elevation. I therefore consider that it would respect the design of the existing dwelling. Indeed, it would add visual interest to the view of the rear of dwellings from Chapel Lane.

8. The inset of windows into the eaves is necessary to connect them to the opening roof-lights. These window details would help to visually relieve the mass of the roof.

9. I have had regard to paragraph 60 of the National Planning Policy Framework which says that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. I recognise that paragraph 60 also indicates that it is proper to promote local distinctiveness but as there is a large variety of building designs in the vicinity I consider that there would be no conflict with this advice.

10. I conclude that the proposed development would have an acceptable effect upon the character and appearance of the area and street scene. It would therefore be in accordance with the Policies SF1, SF5 and H2 of the adopted Derbyshire Dales Local Plan 2005 which, in combination, seek to ensure that development, including the use of materials, preserves or enhances the character and appearance of the settlement; is well related to surrounding properties; preserves the built environment; and would not have a detrimental impact upon the building itself.

11. I have considered all other matters raised including the objection form the occupant of 3 Style Croft who says that the increased height of the roof would remove views. However, the appeal property is at a lower level than the objector’s property and I do not consider that the increase in height of the building would have a harmful effect upon outlook from this property, especially as the other houses in the road are 2-storey.

12. In addition to the standard time condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. In the interests of the character and appearance of the area a condition is also imposed to control the external appearance of the building.
13. For the above reasons, I conclude that the appeal is allowed.

*Siobhan Watson*

INSPECTOR