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23 May 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 3 June 2014 at 6.00pm** in the **Council Chamber, Town Hall, Matlock.**

Yours sincerely



Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS

The Committee is advised that the coach will leave the Town Hall, Matlock at **3.15pm 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

6 May 2014

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.

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.

	Page Nos
4.1 APPLICATION NO.14/00214/FUL (Site Visit)	5 - 15
Alteration and extension to provide retail premises and associated facilities at Midlands Co-Op Ltd, Baileycroft Garage, Harrison Drive, Wirksworth.	
4.2 APPLICATION NO.14/00146/FUL (Site Visit)	16 - 19
Erection of fence at Manor View, 75 High Street, Bonsall.	
4.3 APPLICATION NO. 14/00169/FUL (Site Visit)	20 - 22
Insertion of two windows at 4 High Street, Bonsall.	
4.4 APPLICATION NO. 14/00202/FUL (Site Visit)	23 - 26
Erection of garage at Belle Vue House, Waterloo Road, Matlock Bath.	
4.5 APPLICATION NO. 13/00768/VCOND	27 - 38
Retention of development without compliance with Condition 3 of planning permission WED/1184/0761 (agricultural occupancy restriction) at Ameycroft Farm, Farley.	
4.6 APPLICATION NO. 14/00133/FUL	39 - 52
3 No. pitch traveller site at The Woodyard, Homesford.	
5. TREES PROGRESS REPORT – DDDC APPLICATIONS	53 - 58
To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders.	
6. TREES PROGRESS REPORT – DCC APPLICATIONS	59
To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders.	
7. APPEALS PROGRESS REPORT	60 - 63
To note a report on appeals to the Planning Inspectorate.	

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 Statham, Geoff Stevens MBE, Mrs Jacquie 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 3.15pm prompt for the following site visits:

	Page Nos.
3.30pm Application No. 14/00214/FUL Co-Op, Harrison Drive, Wirksworth Requested by Ward Members to assess the impact of the development upon the vitality of Wirksworth Town Centre.	5 - 15
4.00pm Application No. 14/00146/FUL 75 High Street, Bonsall Requested by Ward Member to assess the impact that the proposal will have on the surrounding area.	16 - 19
4.15pm Application No. 14/00169/FUL 4 High Street, Bonsall Requested by Ward Member to assess the impact that the proposal will have on the surrounding area.	20 - 22
4.40pm Application No. 14/00202/FUL Belle Vue House, Waterloo Road, Matlock Bath Requested by Ward Member to assess the impact that the proposal will have on the surrounding area.	23 - 26
5.00pm Return to Town Hall	

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.

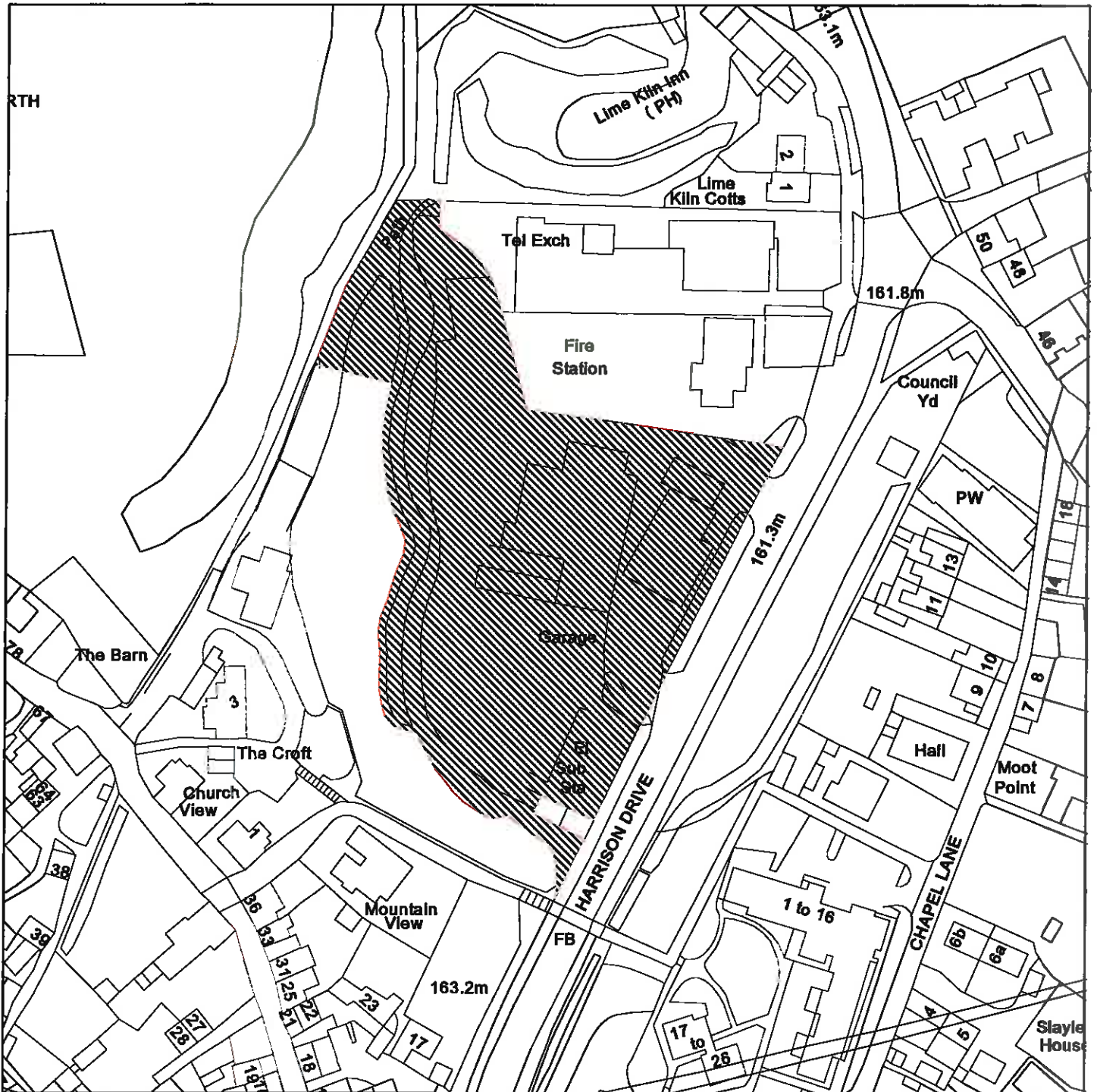
The procedure will be as follows:

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.

14/00214/FUL

Midlands Co-op Ltd, Baileycroft Garage, Harrison Drive, Wirksworth



Scale : 1:1250

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

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	21 May 2014
Licence No.	100019785

**14/00214/FUL ALTERATION AND EXTENSION TO PROVIDE RETAIL PREMISES
AND ASSOCIATED FACILITIES AT MIDLANDS CO-OP LTD,
BAILEYCROFT GARAGE, HARRISON DRIVE, WIRKSWORTH FOR
CENTRAL ENGLAND CO-OP.**

Town Council: Wirksworth
Application type: Full

Date of receipt: 31.03.14
Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:

The application site is the shop serving a petrol filling station and attached commercial buildings off Harrison Drive on the principal approach to the town of Wirksworth from the north. The site is set within a former limestone quarry of which the face is designated as a Site of Special Scientific Interest (SSSI). It is also within the Settlement Framework boundary for Wirksworth and the Wirksworth Conservation Area.

THE APPLICATION:

Full planning permission is sought for the following:

- redevelopment of shop and storage area, workshop and ancillary office space to provide larger retail store including a post office – the petrol station is to be retained
- demolition of part of the filling station canopy
- demolition of single storey part of the south of the building where the shop and stock room are located and a section of the westerly elevation of the workshop with erection of single storey element built on majority of same footprint to provide new build entrance (to include trolley storage), stock room and post office
- relocation of store to a central location and extension into workshop to create retail unit of 837sqm
- refurbishment and recladding of building to provide a more uniform façade
- marginal reduction in existing car parking spaces to improve circulation but provision of a further 25 spaces for staff and customers
- two disabled parking bays will be provided close to the store entrance and entrance to the shop will be via a level access threshold
- the overflow car park is to be resurfaced and parking spaces formally laid out
- an area to the rear of the building is proposed to be fenced off from the car park to contain refuse and recycling bins and will be used for deliveries
- reinforcement of vehicle one way circulation system
- dedicated shelter for cycle storage
- enhanced pedestrian links to Harrison Drive
- a knee rail is proposed between the car park and the quarry face and landscaping in this location is to be improved
- boundary treatments are to remain as existing
- the store would operate from 07.00 to 22.00 seven days a week
- increase from 18 to 27 full and part time employees.

It is proposed that the new build elements will be constructed with buff brick and the roof to have a metal clad parapet capping. Three full height windows are proposed on the front elevation with signage above and buff brick piers between. It is proposed to insert two blank windows in the south elevation to bring 'life' to this otherwise largely blank elevation. Corporate signage is proposed on the front and south elevations albeit this is likely to be subject to an application through the advertisement consent regulations. It is proposed to brick up several redundant windows in the office building in matching bricks where required by the internal layout and the existing windows are proposed to be repainted to match the new windows in the shopfront.

14/00214/FUL (Continued)

The applicant refers to national and local plan policy with respect to justifying the edge of town centre development. The applicant has also submitted a retail impact assessment which states that two studies for the District Council, over the previous 8 years, have suggested a need for further convenience floor space and there is an undersupply of local convenience floor space. It is considered in the assessment that town centre convenience businesses are thriving and will be able to withstand competition from the proposal, having a marginal impact of 2.2% on current convenience businesses which will recover to beyond current levels in four years. It also advises that the proposal represents an opportunity to make Wirksworth self-sufficient for its retail needs without the need to travel to supermarkets beyond the town.

The applicant has submitted a statement of community involvement including public access events, meetings with the Town Council, local publicity and an invitation to submit pre-application comments. This advises of a request to consider Post Office facilities within the development which instigated direct negotiations with the Post Office who had decided to relocate from its central position in the town.

An ecological survey advises that the development will have negligible effects on wildlife and that the works will have little, if any, impact on the SSSI designation of the former quarry. A Transport Statement concludes that the site is highly sustainable, served by public transport and accessible by walking and cycling and the proposed development would not result in an increase in vehicle movement over existing conditions with no material impact on the highway network.

In terms of site contamination, the applicant advises that the site is not being redeveloped for a sensitive use and any ground works by way of some redevelopment are considered to be capable of being addressed through a condition on any planning permission.

The applicant considers the proposal to be an efficient use of previously developed land which will contribute positively to the appearance of the area and enhance the Conservation Area.

RELEVANT HISTORY:

- | | |
|------------|---|
| 02/07/0553 | Redevelopment of garage site including demolition of existing car wash and new relocated car wash, creation of new shop from showroom with external alterations to building – Granted |
| 0490/0323 | Forecourt redevelopment to include new shop, office, canopy, pumps and petrol tanks - Granted |

There have been several applications for advertisement consent

CONSULTATIONS:

Town Council – No objection but have some anxieties about impact on the local retail base in the town.

Local Highway Authority – No objection subject to conditions.

Conservation Advisory Forum – Comment:

- supportive of proposals although considered proposal represented an opportunity to redesign the site with a more creative scheme

14/00214/FUL (Continued)

- some concern with surfacing materials – tarmac with chippings being less visually harsh
- some concern with respect to lighting and advertisements.

DCC Public Rights of Way – No objection as does not appear to affect route of Footpath 71 to the south.

Peak and Northern Footpath Society – No objection.

REPRESENTATIONS:

Three letters supporting the application. The comments can be summarised as follows:

- would not be an enormous out of town store sucking business out of the town
- already serves half of the town
- would offer a wider selection
- seems fair competition and existing traders would be glad if it attracts people to the town
- putting Post Office in the Co-op may not be as ideal as the centre of town but it is far better than no Post Office , even considering the options at Mountford Stores
- to see site go grubby, overgrown or become a centre for anti-social behaviour would be a dereliction of duty
- favour refurbished site, ethical goods, choice and jobs
- safety concerns around the petrol station area as many people just park on the forecourt area – can only get worse with expansion
- more people use the shop than buy petrol – creates long queues waiting to pay and vehicles back up around the forecourt area even more and should be a dedicated kiosk for fuel payments

Two letters objecting to the application. The comments can be summarised as follows:

- full retail impact assessment should be made available
- does not look at potential impact on the range of small grocery and food shops in town centre
- does not ask what gives Wirksworth town centre its vitality
- availability of essentials (bread, meat, fruit and veg) is what keeps town buzzing
- the loss of a couple of shops would leave Wirksworth less attractive for food shopping and possibly start further decline
- many people do their main shopping in the town centre, not as one large weekly/fortnightly shop
- Post Office at the Co-op would draw more expenditure out of town in addition to the competitive impact – trips previously to the town centre Post Office and shops would disappear
- recent traffic survey for the neighbourhood plan revealed most underused car park is at the Co-op
- unappealing walk will discourage people going to town - should be required to improve the walk between the Co-op and the town through use of a legal agreement/planning condition
- exterior of building should be designed to take advantage of very striking site and take lead from the cliffside setting
- design should not be an association with the fire station and fire station threatened with closure and may be demolished.

POLICIES:

1. Adopted Local Plan (2005)

14/00214/FUL (Continued)

- SF1: Development within Settlement Framework Boundaries
- SF5: Design and Appearance of Development
- SF7: Waste Management and Recycling
- SF8: Catering for the Needs of People with Disabilities in Development and Redevelopment
- EDT5: Industrial and Business Development within Settlement Framework
- EDT6: Conversion and Re-Use Of Buildings for Industrial And Business Development Within Settlement Frameworks
- NBE2: Sites Of National Importance For Nature Conservation
- NBE5: Development Affecting Species Protected by Law or are Nationally Rare
- NBE7: Features Important in the Landscape
- NBE8: Landscape Character
- NBE21: Development Affecting a Conservation Area
- NBE26: Landscape Design in Association with New Development
- NBE27: Crime Prevention
- S6: The Design and Appearance of Shops and Commercial Premises
- TR1: Access Requirements and the Impact of New Development
- TR8: Parking Requirements for New Development

2. Pre-Submission Draft Local Plan (June 2013)
 - Strategic Policy 7 - Retail, Leisure and Other Commercial Development
 - Development Management Policy 7 – Biodiversity and Geological Interest
 - Development Management Policy 8 – The Historic Environment
 - Development Management Policy 9 – Design and Appearance of Development
 - Development Management Policy 14 – Development within Town and Local Centres
 - Development Management Policy 22 – Access and Parking
3. National Planning Policy Framework
4. Wirksworth Conservation Area Appraisal
5. Supplementary Planning Guidance
 - Shopfronts and Commercial Properties Design Guidance (May 2006)

ISSUES:

1. Introduction

The principal issues for consideration are the impact that an expansion of the Co-op, and the relocation of the Post Office to it, will have on the vitality of Wirksworth Town Centre. Other issues for consideration are the impact on employment, the design and appearance of the development within the Wirksworth Conservation Area, impacts on the former quarry SSSI and highways and access issues.

2. Policy

The emerging Local Plan has been presented for Examination in Public and must now be given a more significant degree of weight where this does not conflict with the adopted Local Plan and moreso with the National Planning Policy Framework.

The National Planning Policy Framework advises that planning policies should be positive and promote competitive town centre environments that provide customer choice and a diverse retail offer and which reflect the individuality of the town (Paragraph 23). It also states that Local Planning Authorities should allocate edge of centre sites for main town centre users that are well connected to the town centre, where suitable and viable town

14/00214/FUL (Continued)

centre sites are not available, and set policies for consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres..

The pre-ambule to Development Management Policy 14 of the emerging Local Plan refers to the analysis of the performance and health of town centres in the Local Plan area and the need for additional retail floorspace or improvements was considered in the Peak Sub-Region Retail and Town Centre Study. The conclusions of the study were that Wirksworth only secures a tiny proportion of the market share for main food shopping from the wider Matlock/Wirksworth catchment, this having fallen since the arrival of Sainsburys in Matlock. In respect of non-food shopping, Wirksworth secures just over 1% market share for non-bulky goods. This reflects the limited offer within the town and shows that the majority of local residents look to higher order centres to meet their main non-bulky comparison needs.

In terms of scope for future retail food floorspace in Wirksworth, the study recommends planning for an increased retention level of 40%, to improve the qualitative retail provision in the town and potentially reduce any overspend within the Sainsbury's store in Matlock. The study indicated that there is no realistic prospect of Wirksworth achieving a significant enhancement in its market share performance for non-food shopping, and that the town will remain a secondary destination for bulky goods. It advises that the strategy should be to focus on protecting Wirksworth's existing retail provision.

However, regard has to be given to Strategic Policy 7 of the emerging Local Plan. This advises that large expansions to existing stores are required to comply with the sequential, approach to site selection and be supported by an impact assessment and focusing retail development within town centres and resisting retail development elsewhere unless it can be demonstrated that there are no sequentially preferable sites.

It is considered in the emerging Local Plan that there are currently no available sites within Wirksworth town centre, or in edge of centre locations, that are capable of coming forward to meet the future scope for retail floorspace. As such, no site is proposed to be brought forward within Wirksworth for new retail development in the emerging Local Plan. However, the proposed extension to the Co-op does present an opportunity of contributing to meeting the future scope of retail floorspace for the town. Whilst not within the town centre, there is little opportunity for such a store to be provided within this historic area. Other locations where a store could be considered would be unlikely to be as closely connected to the town as the Co-op currently is.

As such, the extended store would be in relatively close proximity to the town centre, well connected to it and would provide for a larger supermarket that currently does not support the town and would seek to stem a leakage of spending from the town. It is also considered that such an offer would encourage residents in the Wirksworth catchment area from being drawn to Ashbourne, Belper and Matlock, for example, to meet their weekly shopping needs and therefore draw investment potential into the town. Such a development may also increase the catchment area by which persons would consider journeying to the town. Given the above, it is considered that the development would meet with the sequential approach to considering such retail development advocated in Paragraph 24 of the NPPF.

There is some concern with regard to the impact on existing local retail provision. However, it is considered that whilst the extended retail unit may have some impact on drawing customers away from some shops in the town, that this would be offset by the

14/00214/FUL (Continued)

potential for increased visits to the town and would not seriously undermine the viability of the town centre as a whole. Such an improved facility could also serve to encourage tourists to visit the town to meet their shopping needs rather than other towns where such supermarket facilities exist.

The Post Office in the town is due to close soon and its future is uncertain. There has been a proposal for its relocation to the south of the town at Mountford Avenue which would take it away from the centre of the town. However, locating the Post Office at the Co-op would mean it would be closer to the town centre than the proposal and would allow opportunity for linked trips.

Whilst there is concern that the Post Office would not be within the town centre, it is considered such a proposal cannot reasonably be refused. The Co-op is a retail unit within Class A1 of the Town and Country Planning Use Classes Order, as is the Post Office. Therefore planning permission would not be required for the relocation of the Post Office had the Co-op not detailed this within the planning application. Should an alternative site be found in the town that was suitable for the requirements of the Post Office, this would not prejudice the relocation from the Co-op, with the vacated space at the Co-op forming a separate shop or ancillary space.

In this respect, the provision of this facility will keep a Post Office in Wirksworth and in a reasonably accessible location. It is not considered that the loss of the Post Office from the town centre would be sufficient in itself to impact on the viability of the town centre or to discourage people from using the town centre. Again, such a facility may encourage people to travel to the town, rather than other towns, and therefore increase potential footfall.

3. Impact on Employment

The proposal will lead to the loss of the existing office space and workshop to separate employment. However, the workshop appears to have been unused for some time and the redevelopment will provide for employment opportunities to offset those which have been lost and the current potential for such.

4. Design and Appearance and Impact on the Wirksworth Conservation Area

The extensions and alterations are considered an improvement to the character and appearance of the building and its setting and therefore an enhancement to the Conservation Area. Whilst there may be opportunity to redevelop the wider site in a holistic manner in years to come, this cannot hold up determining an individual application which promotes aesthetic improvements and economic benefit to the site.

5. Impact on SSSI

The quarry face is the SSSI but the proposals do not propose any direct impact on this feature and are considered acceptable in this respect. It is not considered that protected species would be affected by the relatively modest alterations contained within the site.

6. Highway Issues

Whilst some concern with respect to vehicle/pedestrian conflict has been raised in the representations, the Local Highway Authority has raised no objection to the proposal. The applicant would be responsible for on-site safety and, whilst the petrol station would be in front of the supermarket, it is considered that members of the public would negotiate traffic as is usually the case at supermarket car parks.

14/00214/FUL (Continued)

The Local Highway Authority advises that both accesses onto Harrison Drive have adequate emerging visibility and, whilst the proposals may increase traffic levels by some minor degree, formalising the 'overflow' car parking area is likely to be more than sufficient to cater for any increased parking demand. Therefore, there are no objections from a highway safety viewpoint subject to the conditions relating to the storage of plant and equipment, etc during the development process and the provision of the parking and manoeuvring areas identified on the application drawings.

7. Site Contamination

The applicant has submitted a report on potential contamination of the site. This relates largely to the impact of the petrol station on the site, which is not in itself proposed to be modified except for a reduction in the canopy. In terms of the buildings, it is identified that the former garage may have been impacted by contamination, but it is unlikely that those contaminants found to date will have a significant impact on the building structure. The risks to human health are identified as low/moderate but this is related to the proximity of the petrol station. Given these findings, it is considered that a condition can be attached to any grant of planning permission, and as agreed to by the applicant, to seek to address such matters.

8. Conclusion

Whilst there is some concern that the Co-op in its extended form may have an impact on the viability of the town centre, it has been identified that Wirksworth secures only a tiny amount of the market share for main food shopping from the wider Matlock/Wirksworth catchment and that this has fallen since the arrival of Sainsburys in Matlock. In this respect, rather than seeing the proposal as a threat to the viability of the town, it is considered that the development would help support the town, to prevent leakage of trade from it and encourage visitors to it.

Given that the development would also provide for employment and be visually an improvement to the character and appearance of the site, it is recommended that planning permission be granted.

OFFICER RECOMMENDATION:

Planning permission be granted subject to the following conditions:

1. Condition ST02a Time Limit on Full
2. Condition DM2 All Materials to be Approved – Conservation Area
3. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for the 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
4. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking/ loading and unloading/ manoeuvring of visitors/ staff/ customers/ service and delivery vehicles, laid out, surfaced and maintained

14/00214/FUL (Continued)

throughout the life of the development free from any impediment to its designated use.

5. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until sections A and B have been complied with.

A. Site Characterisation

An investigation and risk assessment, in addition to the assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced and submitted in electronic format. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:-

- (i) survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to human health and buildings
- (iii) an appraisal of remedial options and proposal of the preferred option(s)

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use, by removing unacceptable risks to human health and buildings and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and proposals for how the remediation works will be verified once completed. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

6. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation shall not commence until sections A and B have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition B has been complied with in relation to that contamination.

A. Implementation and Validation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that development required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

B. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*', and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with section A.

Reasons:

1. Reason ST02a
2. To ensure the satisfactory appearance of the development to comply with Policies SF1, SF5, EDT6, NBE21 and S6 of the Adopted Derbyshire Dales Local Plan (2005), Development Management Policies 8, 9 and 14 Of the Pre-submission Draft Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.
3. In the interests of highway safety.
4. To ensure the provision of adequate parking and manoeuvring facilities to comply with Policies TR1 and TR8 of the adopted Derbyshire Dales Local Plan, Development Management Policy 22 of the Pre-submission Draft Local Plan (2013) and government guidance contained in the National Planning Policy Framework.
5. To ensure that risks from land contamination to the future users of the land and buildings are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with government guidance contained in the National Planning Policy Framework.
6. To ensure that risks from land contamination to the future users of the land and buildings are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with government guidance contained in the National Planning Policy Framework.

NOTES TO APPLICANT:

1. The Local Planning Authority prior to the submission of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to the design of the alterations to the premises.

14/00214/FUL (Continued)

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

Drawing Nos. 6795 (02) 01 Rev A, 02 Rev C, 03 Rev B, 04 Rev A and (08) 01 Rev B, 02 Rev B and 03 Rev B received on 31st March 2014

Design and Access Statement received on 31st March 2014

Planning Statement and Supporting Information received on 31st March 2014

Retail Impact Study received on 31st March 2014

Transport Statement received on 31st March 2014

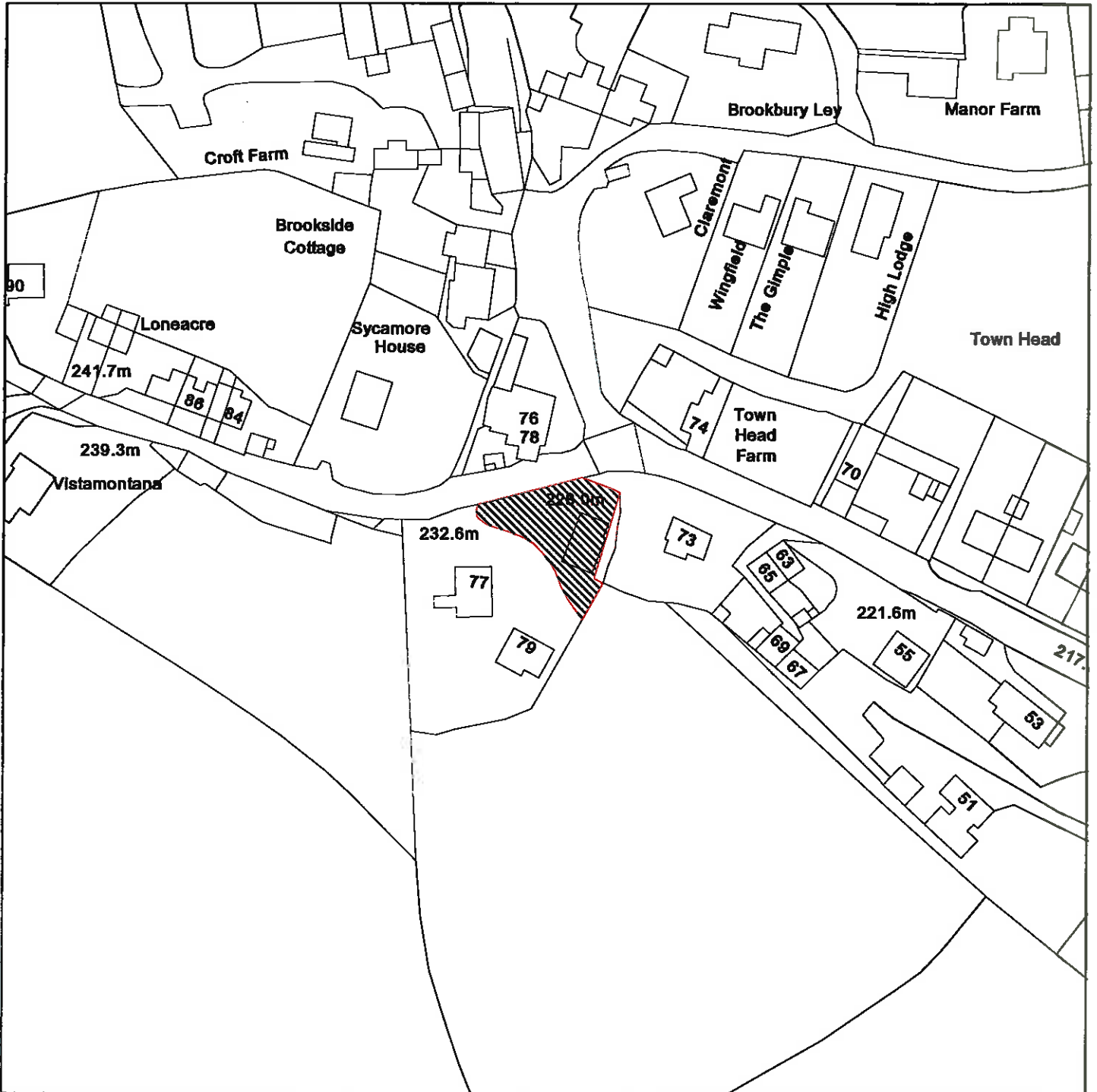
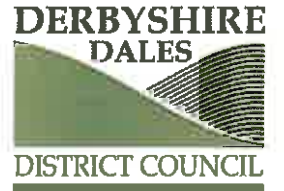
Extended Phase 1 Habitat Survey and Bat Risk Assessment received on 31st March 2014

Intrusive Site Investigation received on 31st March 2014

Statement of Community Involvement received on 31st March 2014

14/00146/FUL

Manor View, 75 High Street, Bonsall



Scale : 1:1250

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

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	21 May 2014
Licence No.	100019785

**14/00146/FUL ERECTION OF FENCE AT MANOR VIEW, 75 HIGH STREET,
BONSALL FOR MT. TAYLOR.**

Parish Council: Bonsall
Application Type: Full

Date of Receipt: 25.02.2014
Case Officer: Mr. A. T. Ecclestone

THE SITE AND SURROUNDINGS:

The application property is a modern, detached, stone-built house, built to a traditional design. It is set back and up from the main road and occupies a prominent position at the north-western side of Bonsall, close to the junction of High Street with Pounder Lane. It also lies within the Bonsall Conservation Area.

THE APPLICATION:

The proposal is for the erection of a 1.2m high, close-boarded boundary fence on top of the current stone retaining wall on the northern boundary. It will cover 20m in length.

RELEVANT HISTORY:

13/00636/FUL	Retention of gazebo.	Granted
07/00759/FUL	Erection of 2 detached dwellings and associated access.	Granted

CONSULTATIONS:

Local Highway Authority:

No objection, subject to Condition requiring exit visibility onto the public highway being maintained.

Parish Council:

No objection.

REPRESENTATIONS:

None received.

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)

SF5 Design And Appearance Of Development

NBE21 Development Affecting A Conservation Area

Derbyshire Dales Local Plan Pre Submission Draft June 2013

Development Management Policy 8 – The Historic Environment

Development Management Policy 9 – Design and Appearance Of Development

National Planning Policy Framework (NPPF)

Chapter 7 Requiring good design

Chapter 12 Conserving and Enhancing the Historic Environment

Other:

Bonsall Village Design Statement

Bonsall Conservation Area Character Appraisal

ISSUES:

The main issue to assess is the impact that the proposed boundary fence will have on the character and appearance of this part of the Bonsall Conservation Area.

This is a prominent site due to its elevated position and being close to the main road. A boundary fence open to public view alongside the highway would have a detrimental impact on the character and appearance of this part of the Bonsall Conservation Area which is characterised by stone boundary walls.

The importance of stone walls in defining the character of the area and the potentially adverse impact of alternative treatments is highlighted in the Bonsall Conservation Area Character Appraisal, Chapter 8 - Negative / Neutral Factors, page 68 where it says "The use of inappropriate boundary treatments also weakens the robust character provided by walls within the area."

It will be highly visible and prominent and there is no scope for planting or soft landscaping which would lessen its visual impact. The harm caused by the proposed fence will bring it into conflict with the following Local Plan Policies.

The proposed fence will conflict with Local Plan Policy SF5 – Design And Appearance Of Development, because the scale, layout and materials of construction do not preserve or enhance the quality or local distinctiveness of the surroundings. The scheme does not reinforce a sense of place and it is not well related to surrounding properties or land uses.

The proposed fence conflicts with Local Plan Policy NBE21 – Development Affecting a Conservation Area, because it does not preserve or enhance the character or appearance of the area.

The proposed fence is also considered to conflict with Strategic Policy 3 of the Derbyshire Dales Local Plan Pre Submission Draft 2014, because it does not conserve or enhance the heritage asset, which in this case is the Bonsall Conservation Area.

The proposed fence will also conflict with Chapter 12 of the National Planning Policy Framework (NPPF), paragraph 131, because it does not make a positive contribution to the local character and distinctiveness.

OFFICER RECOMMENDATION:

Planning Permission be refused for the following reasons:

The appearance of a fence in this prominent position will be harmful to the character and appearance of this part of the Bonsall Conservation Area which is typified in terms of enclosure by robust boundary walling. As such, the proposal conflicts with Policies SF5 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005), Strategic Policy 3 of the Derbyshire Dales Local Plan Pre Submission Draft 2014 and Chapter 12 of the National Planning Policy Framework (NPPF).

14/00146/FUL (Continued)

Note to applicant:

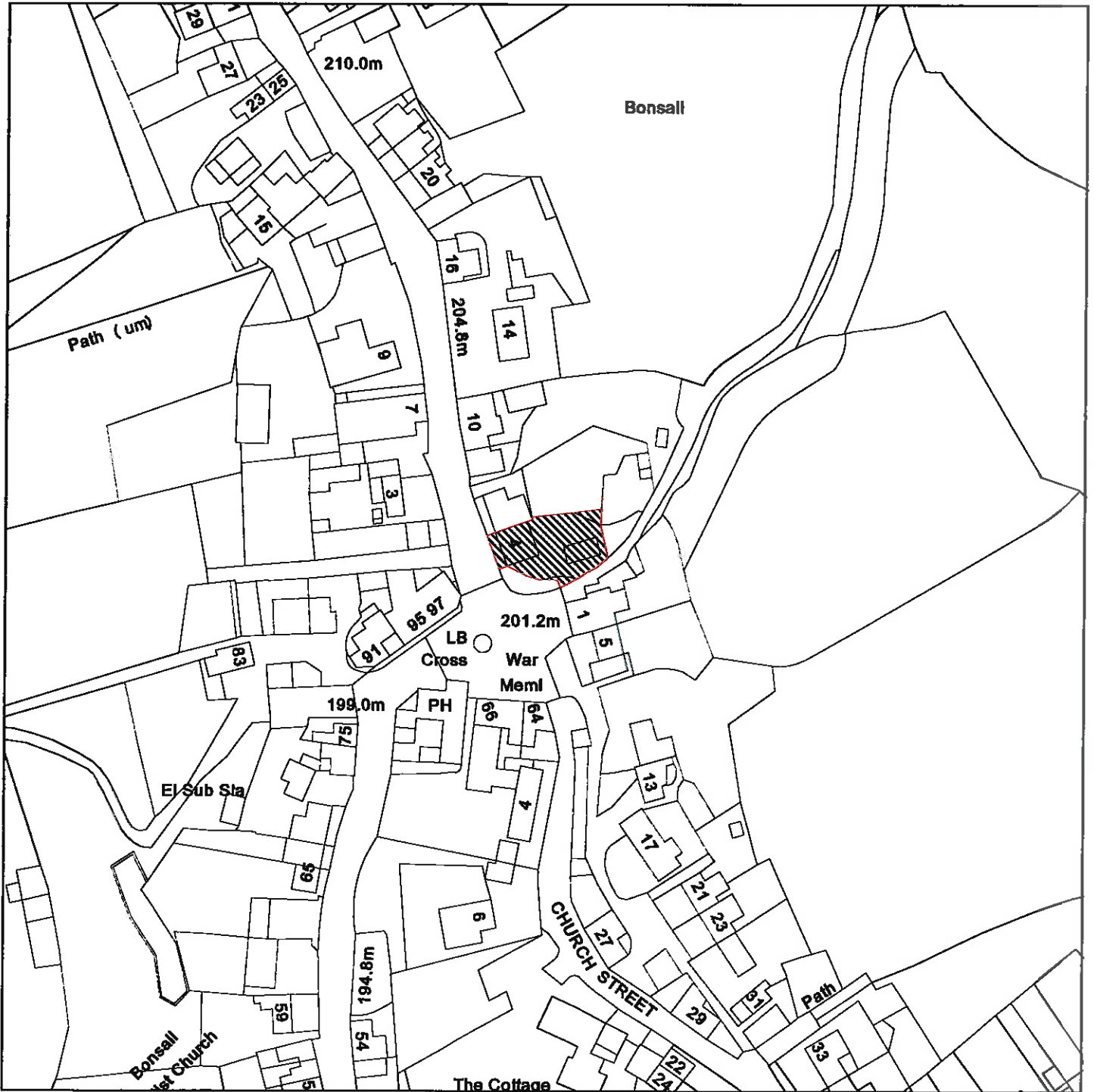
This Decision Notice relates to the following documents:

Drawings numbered 1, 2, 3 and 4, received by the Council on 25th March 2014.

During the consideration of this application, the Local Planning Authority attempted to engage in a positive and proactive dialogue with the applicant. Unfortunately however, 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.

14/00169/FUL

4 High Street, Bonsall



Scale : 1:1250

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Website: www.derbyshiredales.gov.uk

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	21 May 2014
Licence No.	100019785

14/00169/FUL INSERTION OF TWO WINDOWS AT 4 HIGH STREET, BONSCALL FOR MR. & MRS, GERRISH.

Parish Council: Bonsall
ApplicationType: Full

Date of Receipt: 26.03.2014
Case Officer: Mr. A. T. Ecclestone

THE SITE AND SURROUNDINGS:

The application property is an old, stone-built, semi-detached house, situated in a fairly prominent position, close to the centre of the village. It also lies within the Bonsall Conservation Area.

THE APPLICATION:

The proposal is for the insertion of two windows in the gable-end. One will be at first-floor level and the other will be in the roof-space. They will both be positioned off-centre.

RELEVANT HISTORY:

None.

CONSULTATIONS:

Local Highway Authority:
No objection.

Town Council:
No objection.

REPRESENTATIONS:

None received.

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)
SF5 Design And Appearance Of Development
NBE21 Development Affecting A Conservation Area

Derbyshire Dales Local Plan Pre Submission Draft June 2013
Development Management Policy 8 – The Historic Environment
Development Management Policy 9 – Design and Appearance Of Development

National Planning Policy Framework (NPPF)
Chapter 7 – Requiring good design
Chapter 12 Conserving and Enhancing the Historic Environment

Other:
Bonsall Village Design Statement
Bonsall Conservation Area Character Appraisal.

ISSUES:

The main issues to assess are the impact that the proposed windows will have on the character and appearance of the house and its context within the Bonsall Conservation Area.

14/00169/FUL (Continued)

The building is prominent at the heart of the Bonsall Conservation Area. Due to the characteristic blankness of the gable-end, the introduction of further openings is considered harmful to its character and appearance. Although there are other examples of houses with windows in their gable ends, this is considered to give further weight to this particular property retaining its plain appearance.

The insertion of the proposed windows will conflict with Local Plan Policy SF5 – Design And Appearance Of Development, because the change to the building does not preserve or enhance the quality or local distinctiveness of the surroundings.

The proposed windows also conflicts with Local Plan Policy NBE21 – Development Affecting a Conservation Area, because it does not preserve or enhance the character or appearance of the area.

The proposed windows are also considered to conflict with Strategic Policy 3 of the Derbyshire Dales Local Plan Pre Submission Draft 2014, because it does not conserve or enhance the heritage asset, which in this case is the Bonsall Conservation Area.

The proposed windows will also conflict with Chapter 12 of the National Planning Policy Framework (NPPF), paragraph 131, because it does not make a positive contribution to the local character and distinctiveness.

OFFICER RECOMMENDATION:

Planning Permission be refused for the following reasons:

Due to the characteristic blankness of the elevation, the introduction of further openings will be harmful to its character and appearance and thereby harm the character and appearance of the dwelling. It will have a detrimental impact on the character and appearance of the Bonsall Conservation Area because of the prominent siting of the building's blank gable elevation. As such, the proposal will conflict with Policies SF5 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005), Strategic Policy 3 of the Derbyshire Dales Local Plan Pre Submission Draft 2014 and Chapter 12 of the National Planning Policy Framework (NPPF).

Note to applicant:

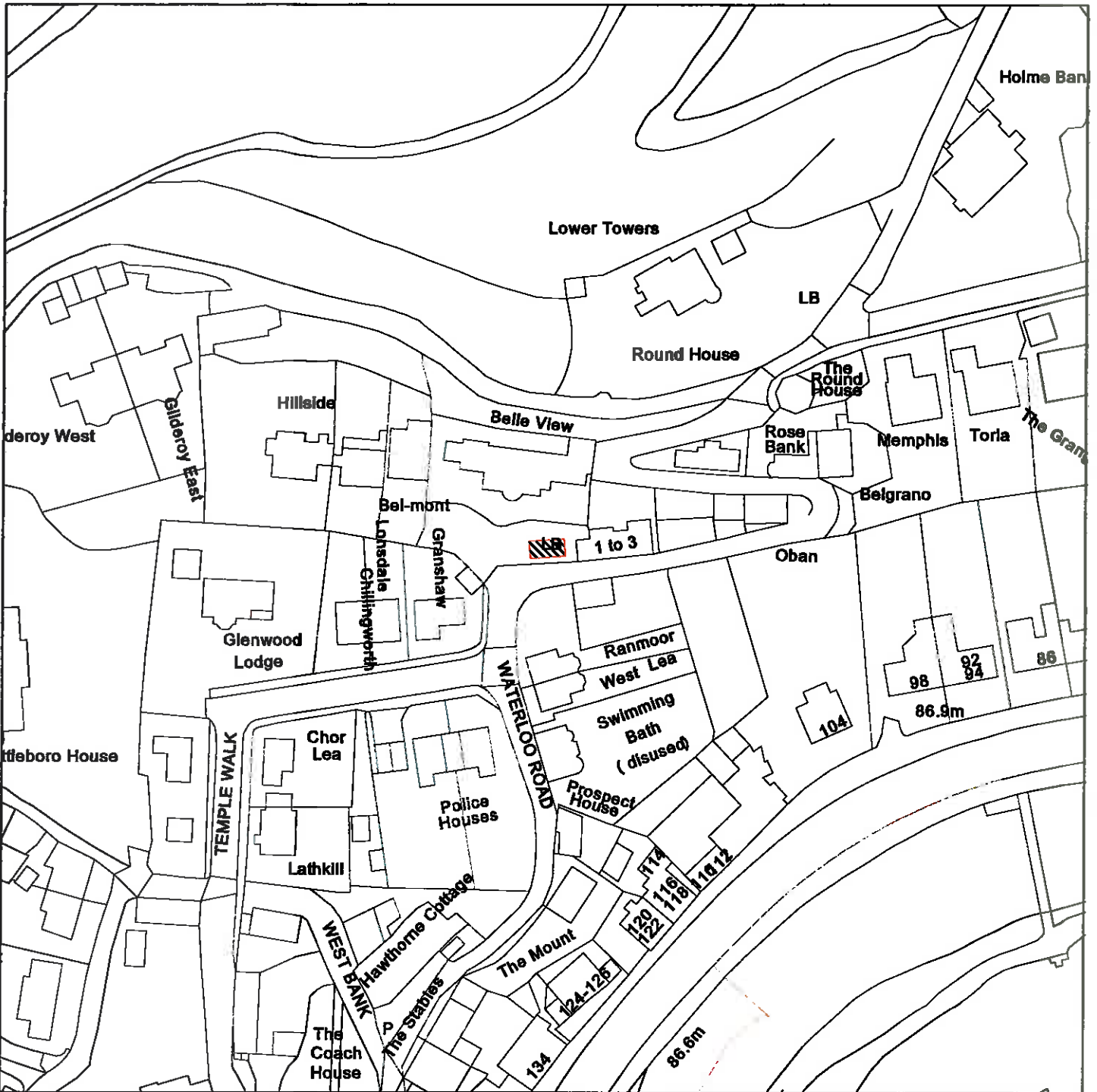
This Decision Notice relates to the following documents:

Drawings numbered 501/05 and 501/06, received by the Council on 26th March 2014 and drawings numbered 501/04A and 501/03A, received by the Council on 16th May 2014.

During the consideration of this application, the Local Planning Authority attempted to engaged in a positive and proactive dialogue with the agent. Unfortunately however, 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.

14/00202/FUL

Belle Vue House, Waterloo Road, Matlock Bath



Scale : 1:1250

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Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	21 May 2014
Licence No.	100019785

**14/00202/FUL ERECTION OF GARAGE AT BELLE VUE HOUSE, WATERLOO ROAD
MATLOCK BATH FOR MR. WILLIAMS**

Parish Council: Matlock Bath
Application Type: Full

Date of Receipt: 27.03.2014
Case Officer: Mr. A. T. Ecclestone

THE SITE AND SURROUNDINGS:

Belle Vue House is a Grade II Listed Building, situated not far from the junction of Temple Walk with Waterloo Road. It is set back and up from the road. It has a parking area at the front, just off Waterloo Road which is partially screened by trees and an ivy covered, roadside boundary wall.

THE APPLICATION:

The proposal is for the erection of a detached, timber garage in the parking area at the front, just off Waterloo Road. Its dimensions will be 4.2m by 5.10m and 3.1m high with a shallow pitched roof. It will also have an overhanging canopy.

RELEVANT HISTORY:

Various Planning and Listed Building Applications for extensions and alterations to the main house.

CONSULTATIONS:

Local Highway Authority:
No objection.

Town Council:
No objection.

Conservation Advisory Forum:

- Forum members were not opposed to a building in the proposed location but considered that the scheme as submitted should be revised in terms of its design and materials.
- Currently the extent of foliage serves to disguise any new building at the rear, however if this foliage was not in place, it was considered that the scheme could not be supported in terms of its size and appearance.
- It was considered that the large garage building required an improved design (the roof orientation was considered inappropriate) and more traditional materials (again particularly the roof), for it to be acceptable in this location. Whilst the proposal is screened by the existing trees, if these were removed or died, the site and any associated building would be highly prominent in the context of views within the Conservation Area. Therefore any proposed scheme should be able to stand on its own merits.

REPRESENTATIONS:

None received.

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)
SF5 Design And Appearance Of Development
H2 Extensions To Dwellings
NBE21 Development Affecting A Conservation Area

14/00202/FUL (Continued)

Derbyshire Dales Local Plan Pre Submission Draft June 2013
Development Management Policy 8 – The Historic Environment
Development Management Policy 9 – Design and Appearance Of Development

National Planning Policy Framework (NPPF)
Chapter 7 – Requiring good design
Chapter 12 - Conserving and Enhancing the Historic Environment

Other:
Matlock Bath Conservation Area Character Appraisal.

ISSUES:

The main issue to assess are the impact that the proposed garage will have on the character and appearance of the Matlock Bath Conservation Area.

Although the proposed garage will be partially screened by planting, it will still be visible from public view. The design and appearance in this case are not considered to be appropriate in the Conservation Area. Whilst the garage in principle may be acceptable, its design and materials should reflect on the character and appearance of the Conservation Area. Whilst the proposal would be screened by the existing trees, if these were removed or died, the site and any associated building would be highly prominent in the context of views within the Conservation Area. Any proposed scheme should be able to stand on its own merits.

The proposed garage will conflict with Local Plan Policy SF5 – Design And Appearance Of Development, because the design and layout does not preserve or enhance the quality or local distinctiveness of the surroundings.

The proposal will conflict with Local Plan Policy H2 – Extensions To Dwellings, because it would result in a detrimental impact on the character and appearance of the dwelling and its surroundings.

The proposed garage also conflicts with Local Plan Policy NBE21 – Development Affecting a Conservation Area, because it does not preserve or enhance the character or appearance of the area.

The proposed garage is also considered to conflict with Strategic Policy 3 of the Derbyshire Dales Local Plan Pre Submission Draft 2014, because it does not conserve or enhance the heritage asset, which in this case is the Matlock Bath Conservation Area.

The proposed garage will also conflict with Chapter 12 of the National Planning Policy Framework (NPPF), paragraph 131, because it does not make a positive contribution to the local character and distinctiveness.

OFFICER RECOMMENDATION:

Planning Permission be refused for the following reasons:

The size, design, appearance and materials of construction of the proposed garage are such that it will have a detrimental impact on the character and appearance of the Matlock Bath

14/00202/FUL (Continued)

Conservation Area. It will appear as an incongruous building in a prominent location which will not preserve or enhance the character and appearance of the Conservation Area. As such, the proposal will conflict with Policies SF5, H2 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005), Strategic Policy 3 of the Derbyshire Dales Local Plan Pre Submission Draft 2014 and Chapter 12 of the National Planning Policy Framework (NPPF).

Note to applicant:

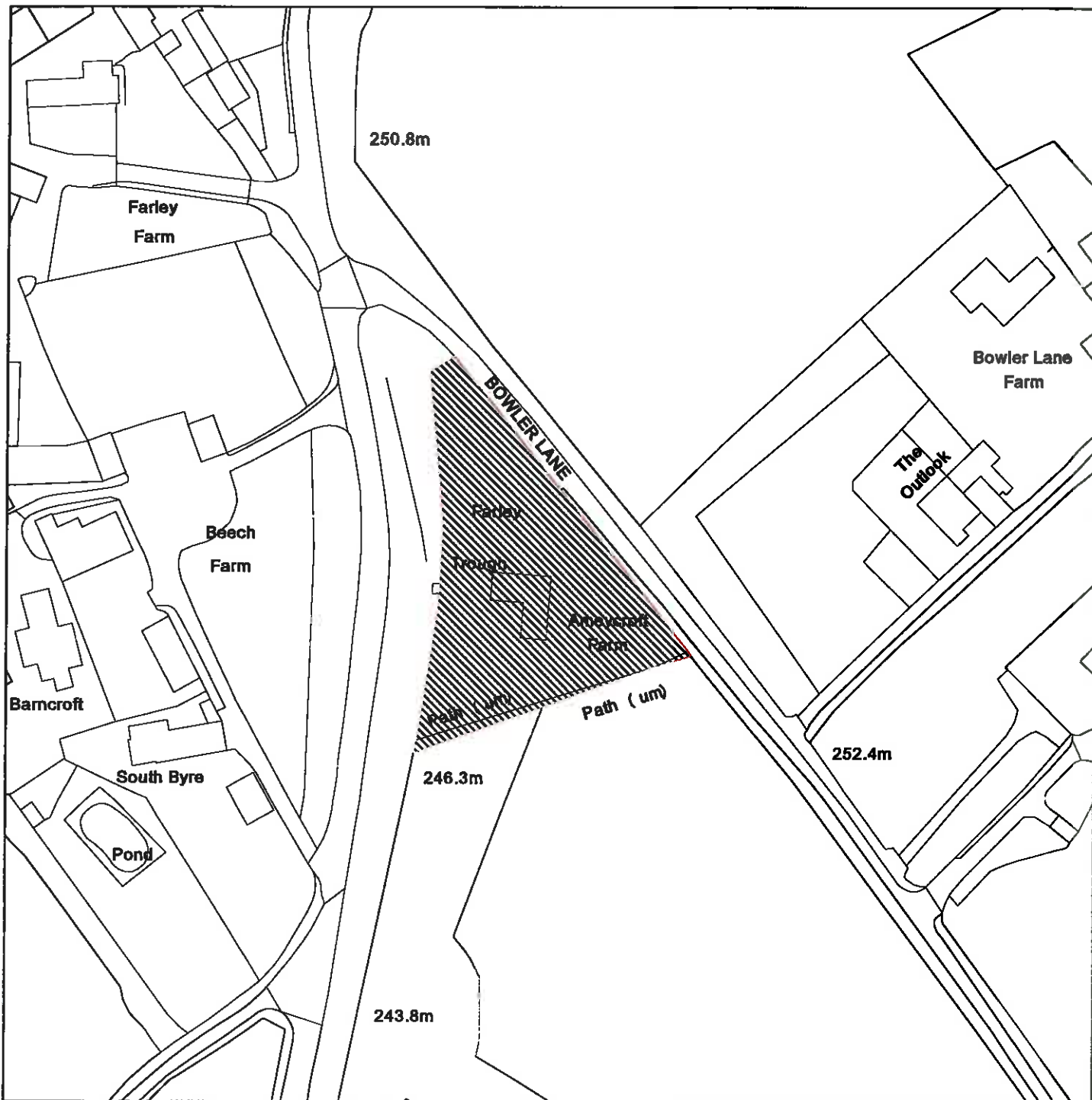
This Decision Notice relates to the following documents:

Drawings numbered 1, 2, 3 and 4, received by the Council on 27th March 2014.

Prior to the submission of the application, the Local Planning Authority attempted to engage in a positive and proactive dialogue with the applicant. Unfortunately however, the advice was not followed and it was considered 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.

13/00768/VCOND

Ameycroft Farm, Farley



Scale : 1:1250

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Website: www.derbyshiredales.gov.uk

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	21 May 2014
Licence No.	100019785

**13/00768/VCOND RETENTION OF DEVELOPMENT WITHOUT COMPLIANCE WITH
CONDITION 3 OF PLANNING PERMISSION WED/1184/0761
(AGRICULTURAL OCCUPANCY RESTRICTION) AT AMEYCROFT
FARM, FARLEY FOR MR. M. SLACK**

Town Council: Darley Dale
Application type: Variation of Condition

Date of receipt: 31.10.13
Case Officer: Mr. G. Griffiths

INTRODUCTION

This planning application is being re-presented to the Central and Northern Planning Committee further to the decision of Members at the 14th January 2014 meeting to defer decision on the application. This was in order to allow the applicant an opportunity to submit further information to justify occupying the dwellinghouse without complying with Condition 3 of planning permission WED/1184/0761 which placed an agricultural occupancy restriction on the dwelling.

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 submitted a supporting statement which advised that he had 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 was submitted by Saxton Mee (estate agents) which advised that the property had 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 was 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 was not a financially viable proposition.

The applicant stated that this had not been made known to the Planning Inspector and he believed, had this been the case, the Inspector would have reached a different conclusion with regard to the usefulness of the occupancy tie. The applicant also stated that the property could not be sold whilst the restriction on occupancy remained, given that there is

13/00768/VCOND (Continued)

insufficient land associated to create a viable agricultural business and because no other person who can comply with the condition had shown an interest.

The applicant advised 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 had also advised that he was 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 considered the appearance of the extension had been carefully considered and that he had gone to great cost to ensure that it did not detract from the general character and appearance of the original farmhouse, was not overbearing in any way or caused harm to the open countryside. The applicant advised that the extension was 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.

ADDITIONAL INFORMATION

Further to the deferral of the decision by the Central and Northern Area Planning Committee, the applicant has now presented statements from Bagshaws and Saxton Mee to explain why they consider the agricultural occupancy tie has outlived its usefulness.

Condition of Holding

It is advised that Ameycroft Farm was purchased by the applicant in 2009 following the cessation of the poultry business. The farm was in a generally poor state and the farm buildings and house required significant work. The asbestos lined poultry buildings carried a considerable liability and were unsuitable for modern animal welfare standards and works to improve the buildings and yard were carried out at a significant cost.

Bagshaws advise that as the poultry industry has changed, developed and become increasingly competitive, the viability of poultry units of this size has been compromised considerably. The previous owner ceased poultry production on the farm in May 2006, following further complaints from neighbours regarding noise and smell and a result of the competitive and evolving market. In this respect, Bagshaws consider that the location of the farm unit is not suitable for agricultural use and, if this was a greenfield site proposed for a poultry unit, the proximity to neighbours and the residential location would make this unacceptable for environmental reasons. In addition, the nature of the poultry industry has changed and large poultry units are focused away from residential areas to avoid contrasting uses associated with residential development near farms.

History and Marketing

The land upon which Ameycroft Farm stands was originally under the ownership of the adjacent Bent Farm. Bent Farm was owned by the previous owner of Ameycroft Farm until the former was sold in 1982. An application was submitted by the previous owner which was granted by the District Council in 1985, under a Section 52 agreement, to erect a new four bedroomed detached farmhouse to service the relatively modest 20,000 bird poultry unit that again stood immediately adjacent to Bent Farm.

13/00768/VCOND (Continued)

Following a matrimonial dispute, the property was marketed in 2008/9 allowing the wider agricultural sector to express interest in the property. Saxton Mee Estate Agents acted for the previous owners when the sale was negotiated with the applicant on 17th June 2009. It is advised that interest was extremely limited, mainly due to the fact that the farm itself was not a viable unit for any type or size of agricultural business whether this was poultry, cattle, sheep or pig production. The dwelling and buildings were erected as a specialist unit and, therefore, considering the very limited land holding, were not adaptable for any other agricultural use.

Saxton Mee advise that had the tie not been applied, and the dwellinghouse been sold on the open market, they would have valued the property at around £750,000. Ameycroft Farm was placed on the market at a time when the market was still relatively active. However, by the end of the year the market had collapsed due to the demise of the Northern Rock Building Society. Even though the £625,000 asking price at that time was reduced to £575,000 and then latterly to £550,000, interest within the market place was exceptionally slow. There was very little demand for Ameycroft Farm, largely due to the fact that the such a small poultry unit was uneconomical and the sheds themselves, which were second hand when erected in the 1970's, were now outdated.

Nevertheless, a sale was agreed to the applicant at £499,950 on the 17th June 2009. Shortly after agreeing this sale, Saxton Mee were approached by a third party who had formerly viewed the residence, who were in a position to proceed and who could comply with the occupancy tie. They tendered an increased offer at a higher bid of £525,000. This was declined due to the fact that the owners were experiencing matrimonial difficulties and were separating, so the speed of the transaction was of high importance. Whilst the applicant purchased the property for £449,950, it is advised that this was in a depressed market and personal pressure on the vendor forced the sale. It is considered that market value was some £550,000 subject to the dilapidation and liability of the poultry buildings.

Officers requested an assessment of the separate values of the dwellinghouse and the land and farm buildings. This is advised by Bagshaws to be inappropriate as the dwelling and holding are tied through a Section 52 legal agreement. In addition, they considered that there would be possible conflicting uses of separate ownership and the valuation of the separate plots is likely to be different than the overall market value of the property and lotting of the property would not be advised by the selling agents.

Saxton Mee state that the dwellinghouse is not a farm worker's bungalow or cottage and would not appeal to a retired farmer, as it was a large family home extending to 2,500 square feet or thereabouts. The land, which extended to around 5.5 acres, is also considered to not be viable for any other type of farming and, therefore, the property was exceptionally hard to sell because of the limitations of the Section 52 agreement.

Supporting Information

Bagshaws advise that whilst the demand for agricultural workers dwellings has not ceased, such accommodation has to meet the needs of the business and be in the correct location and be of appropriate size. Many farm workers need the building on the holding to meet their functional requirements of the enterprise. With regards to retirement, no demand has been identified in the locality and retired farmers tend to remain in their existing accommodation, down size to smaller accommodation in villages or towns or

13/00768/VCOND (Continued)

continue to work beyond retirement age. Bagshaws consider that the dwelling is located in a largely residential area, away from key farm businesses.

Reference is made to an Appeal decision at Bella Vista, Brailsford where the Planning Inspector gave little weight to the emerging Local Plan and therefore referred to paragraph 55 of the National Planning Policy Framework. Whilst the Planning Inspector considered that there seemed to be a demand for on-site agricultural workers dwellings, the evidence was less clear for a more general pool of such dwellings. The Inspector also considered that a lack of interest shown in that property was more likely to reflect a lack of demand for a dwelling of that type than the price being set so prohibitively high in relation to the local housing market. The Planning Inspector also afforded little weight to the requirement for a financial contribution towards affordable housing provision in lieu of existing Local Plan policy, or that in emerging Local Plan policy, given the early stage of the plan.

Given the above, whilst Bagshaws acknowledge there are continual requirements for housing workers and retired employees, it is their view that the application property is not of a size which is commensurate with those uses and not affordable. They state that agricultural workers will tend to be housed in the pool of housing in nearby villages and towns, and retired workers in a dwelling which is of a size and scale appropriate to their income. This dwelling is considered to be of a considerable size which is aimed at a farm owner rather than an employee or retired person. Again, with other sectors of agriculture, such as farm contractors, Bagshaws consider this dwelling is of a size which is unlikely to be affordable to these type of persons, and any interest would have been expressed during the marketing period prior to the applicant's purchase.

As such, the applicant seeks to regularise the use of the property without an agricultural occupancy condition and the inconsistencies which have arisen with the recent extension to the property. It is also advised that, should the Council be in a position to approve the application including the above matters, the applicant is amenable to the payment of the affordable housing contribution.

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
0385/0209 | Two-storey side extensions - Refused
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

13/00768/VCOND (Continued)

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.

A petition with 14 signatories received from local residents which is summarised as follows:

- relatively modest, well screened house has almost doubled in size
- extension too close to the road
- garden works on all sides never completed
- foundations provided for a huge area of block paving
- 5-6 large, very bright orange lights light up the building at night
- applicant has brazenly flouted planning regulations and shown no respect for the environment or neighbours
- Planning Inspectorate supported DDDC in enforcement requiring removal of the large extension built without planning consent – time has passed when it should have been removed
- other matters that are deemed outside the scope for consideration of the planning application but which are nevertheless being investigated by the Local Planning Authority which include:
 - o obvious that former chicken sheds are being used for light industrial/business purposes – why have DDDC not challenged this unauthorised use?
 - o access has been moved some 30-40m to the south and curtilage of the house considerably extended – should this have required planning permission and approval of the highway authority
 - o removal of trees and hedges with all but three trees within the highway verge which has become an unkempt area
 - o dumping of waste material
 - o storage of white goods and surplus goods connected with applicant's business

Three letters of representation further to deferral of the application. The Comments are summarised as follows:

- does not have to be a viable farming enterprise to be of interest to purchasers in the farming community as would be of interest to retiring/semi-retiring farmers
- know of serious interest in the purchase of the property from someone who met the occupancy condition
- no doubt that a significant income could have been made from farming the holding but the applicant and his partner had neither the experience or intent to farm and their attempts failed
- not located in a residential area as suggested by agents
- property was adequately marketed prior to the application – no sale board erected and sale particularly hastily thrown together
- indifferent marketing, unreasonably high asking price and an unwilling vendor led to no interest in property

13/00768/VCOND (Continued)

- despite 'illegal' occupancy has continued to invest in the property making changes without necessary consents effectively putting property beyond the means of potential qualifying purchasers
- two enforcement appeals have found that the additions to the dwelling were inappropriate because of the agricultural tie
- despoliation of grazing land and removal of field boundaries has further detracted from its attraction
- applicant has in effect ringed Bent Farm with all the detritus of a rural slum, including three cars parked directly under the boundary wall where he cannot see them but are obtrusive to neighbour
- large amounts of lumber being burned, earthworks, and a very unsightly caravan.
- appears that Bent Farm is the rural slum and not the applicant's property
- farm has become an industrial estate
- has been dressing up his own property with landscaping and new drystone walling incommensurate with a building for agricultural occupation
- because of many unauthorised aspects of the property no solicitor would recommend its purchase
- objected to the original planning application for the property but withdrew objection when conditions were agreed by the previous owner for a tree screen, a bund with trees to hide the chicken sheds and retention of the footpath across the land – none of these now exist
- have light pollution consistent with a cheap hotel rather than a country farmhouse and high definition spy cameras recording movement along Bowler Lane
- feel some responsibility for current situation having withdrawn original objection
- something has to be done or a free for all will exist in the not too distant future for the benefit of no one
- if the agricultural occupancy condition is lifted now, would that in effect give Mr Slack his building authorisations retrospectively and, if that is so, his reward for flouting of the planning regime will be royal
- he will be able to live in a property he has remodelled to his own taste without reference to any other consideration and its market value will have been substantially enhanced
- Mr. Slack may feel with some satisfaction, but his neighbours with justified infuriation, that he has established a right to ignore the planning regime and proceed to any more works he chooses
- suggest that the present issue is not a single, simple issue of an application for the lifting of the 'agricultural tie', but is inextricably bound up with a number of complaints and potential complaints about the applicants abuse and/or flouting of the planning regime
- presume advice may be that if he makes his property look so desirable and grand no-one on the Council will care about its illegality.
- understand that other complaints and enforcement issues may be matters to be dealt with at County Council or highways level
- a simple rejection by the Committee of the application will be entirely in line with all the other judgments given in relation to these matters, and will allow the proper and necessary measures under the planning regime to flow according both to the law (and natural justice) and will moreover uphold the integrity of the planning regime in Derbyshire.
- an appeal process which is never exhausted makes a nonsense of any regulatory regime and encourages precisely the sort of tit-for-tat neighbour conflict and infringement of the law which the planning regime exists to prevent

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- have no wish to embark on any process of complaint against the Council, or its officers, or investigation of its apparent endless indulgence towards Mr Slack – whether through the Ombudsman, the local MP, the Department or the courts – or any other process which own expertise and contacts may suggest
- understand other residents of Farley are suffering considerable nuisance as things are and feelings are beginning to run high
- something needs to be done to restore the peace rather than almost constant confrontation
- there seems to be one planning regime for Mr Slack and another for the rest of us.

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 dwellinghouse. 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

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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 was required to demolish the extension within 6 months of the Planning Inspector's decision on 16th July 2013 (i.e. by 16th January 2014); this has not been undertaken.

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*

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- 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 to 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.

The emerging Local Plan has now been submitted for the Examination In Public. However, 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 for the operation of the holding and is the reason for its approval and the reason for the occupancy restriction; this is in accordance with Policies 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.

It is considered that the submission of further supporting information from Bagshaws and Saxton Mee has tipped the balance towards a favourable recommendation for removing the occupancy tie. The Estate Agents advise that, whilst the applicant purchased the property for £449,950, this was in a depressed market and personal pressure on the vendor forced the sale. Given the size of the original dwelling, the land associated with and the condition of the poultry unit, the valuation would appear reasonable with a discount based on the tie.

In analysing the assessment of the Estate Agents, one area of concern is that interest was shown in the property by a couple meeting with the requirements of the occupancy tie and who offered some £25000 more to purchase the property than the applicant's original offer. It is therefore considered that the previous owner could have sold the property to this person and there is no clear justification as to why this did not occur, particularly when more money was offered. However, it has to be accepted that this did not occur and an assessment has to now be made based on the appropriateness of the tie.

It seems with the poor quality of the poultry buildings, and the limited landholding, that a viable farm operation could not have continued forward and had been wound down by the previous owner. In this respect, it has to be considered that the dwelling could only realistically be suitable with its occupancy tie for persons who may be farm managers (not required to live at the farm they manage) or agricultural specialists who may have higher income levels. However, the number of persons that would qualify within such a niche of agricultural workers in the area is considered to be low.

In terms of retired agricultural workers, the applicant's agent makes reasonable points as to why such a property would be unlikely to be appropriate. A retiring agricultural worker would be unlikely to afford the property even with a discount on its open marketed value. In addition, retiring farmers would normally wish to stay close to their farm or community

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and this would therefore limit the number of such persons who would be interested in such a property.

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. In this respect, it is considered that this element of the application complies with the requirements of Development Management Policy 3 and therefore the application justifies a balanced recommendation of approval.

Neighbours have raised a number of issues with respect to works that have or are currently being undertaken on the applicant's property which are subject to investigation by the appropriate authorities. However, Officers consider that these matters have no direct impact on the consideration of the application in front of the Committee.

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. However, when agricultural dwellings are no longer required to serve an agricultural business on site, they still provide a pool of agriculturally tied, and affordable, housing for the wider agricultural community, including retired farmers. Therefore, 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, or that such marketing would effectively be a futile exercise because of the affordability of the property or lack of potential occupiers.

It is considered that the additional information submitted by Bagshaws and Saxton Mee has, on balance, established a reasonable case why the occupancy condition has outlived its purpose. Whilst the previous owner had opportunity to sell the property to persons who could have met with the restriction of the occupancy tie, a certain amount of weight has to be given to the previous owners' reasons for the selling the property to the applicant given their circumstances at the time.

Therefore, what has to be assessed is whether the occupancy tie has now outlived its usefulness. It is apparent that no meaningful agricultural operation can be undertaken on the site that might employ an agricultural worker and the reasonable value of the dwellinghouse in its original form, whether tied to the holding or not, would have limited the potential for sale to someone employed or last employed in agriculture.

The dwellinghouse was given planning permission to provide for a farming need associated with the holding and the condition imposed to allow the property more affordable for agricultural workers. In the same light, through lifting the tie, the applicant has offered to make a financial contribution towards affordable housing, in accordance with Development Management Policy 3. The financial contribution supports the reason for the occupancy tie in the first instance; to provide affordable housing to serve the local community. In this respect, it is considered, on the balance of the case now presented, and the offsetting of the loss of tied dwelling with a contribution towards affordable housing in the District, that the variation of condition is acceptable. However, this is subject to the applicant first entering into a legal agreement to provide such a financial contribution.

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In agreeing to the above, it is also recommended that planning permission be deemed granted for the unauthorised extension to the dwellinghouse which was principally opposed by the District Council as it made the agricultural workers dwelling less affordable. Although a Planning Inspector has found against the extension in terms of its design and scale, this is considered to be part related to the agricultural tie. As an extension of what would be an open market dwellinghouse, it is the view of Officers that the extension is not so damaging on its own to warrant its removal.

OFFICER RECOMMENDATION:

That subject to the legal agreement for a financial contribution to affordable housing, that permission be granted to vary Condition 3 of outline planning permission WED/1184/0761.

NOTES TO APPLICANT:

The Local Planning Authority during the consideration of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of additional information that overcame initial concerns relating to the lack of reasoned justification for the variation of condition.

This decision notice relates to the following documents:

Supporting Statement received on 31st October 2013

Letter from Saxton Mee received on 31st October 2013

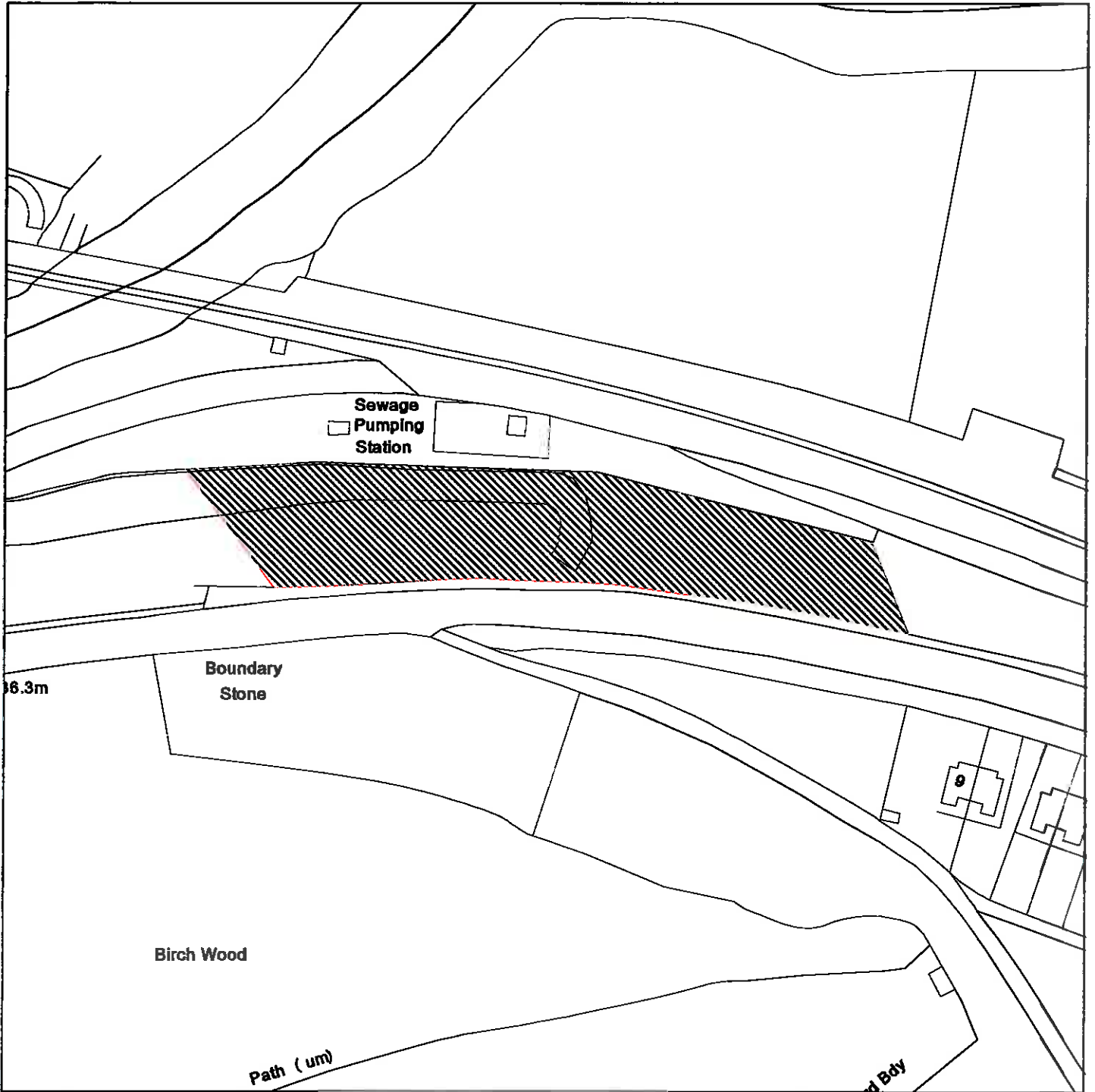
Copy of Section 52 Legal Agreement dated 2nd May 1985 received on 31st October 2013

Additional Information from Bagshaws LLP received on 3rd April 2014

Additional Information from Bagshaws LLP and Saxton Mee received on 20th May 2014

14/00133/FUL

The Woodyard, Homesford



Scale : 1:1250

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

Organisation	Derbyshire Dales District Council
Department	Not Set
Comments	Not Set
Date	21 May 2014
Licence No.	100019785

14/00133/FUL 3 NO. PITCH TRAVELLER SITE AT THE WOODYARD, HOMESFORD FOR MS S. SPENCER

Town Council: Wirksworth
Application type: Full

Date of receipt: 06.03.14
Case Officer: Mr. G. Griffiths

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 largely down to hardstanding. The site is within the open countryside and within the Derwent Valley Mills World Heritage Site.

THE APPLICATION:

Full planning permission is sought for a three pitch traveller site. A block plan has been submitted detailing the pitches to be sited towards the eastern part of the site, covering approximately 50% of the overall site. The land to the west of the application site does not form part of the planning application. The access to serve the development is proposed to be located to the east of the site in order to provide improved visibility for drivers. To the north of the access point off the A6, it is proposed to provide a turning point and parking space for two vehicles.

Each pitch is proposed to measure approximately 180 sqm. which the applicant considers large enough to accommodate a small mobile home or a larger caravan and a touring caravan. The woodland to the east of the site is proposed as an informal play area.

In terms of the landscaping, that which exists to the northern and eastern parts of the site would be retained. In addition, it is proposed to have a planted area between 2-6m deep along the frontage set behind the existing boundary wall. There is a 3.5m deep and 6m long return of landscaping proposed into the site along the western side of the proposed access. A 1m-3m deep landscaping belt is proposed along the western boundary of the application site.

The applicant advises that the site accords with advice set out in the Government's 'Planning Policy for Traveller Sites,' and broadly accords with the locational requirements as set out in the saved policies of the adopted Derbyshire Dales Local Plan (2005) and would meet an unmet obligation of the District Council to provide a traveller site as required in the most recent 'Gypsy and Traveller Accommodation Assessment' which is currently under review.

RELEVANT HISTORY:

14/00117/FUL Change of use of land to use for siting of 6 no. holiday lodges – Refused.

13/00838/FUL Change of use of land to use for siting of 8 no. holiday lodges (chalets) – Refused.

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:

Wirksworth Town Council – Object:

- concerns relating to visual impact on the World Heritage corridor from the A6.
- safety issues with respect to the canal, river and railway to the rear of the site and the A6 to the front.

Coal Authority – Comment:

- falls within a low risk area.
- no requirement for consultation.
- refer to standing advice.

Local Highway Authority – No objection subject to conditions.

Environment Agency – Object:

- within Flood Zone 2 and require evidence that a sequential test has been completed to demonstrate that there are no reasonable alternative sites in areas of lower probability of flooding.

Natural England – No objection – refer to standing advice.

Derwent Valley Mills World Heritage Site Conservation and Planning Panel – Object:

- one of the reasons why the Derwent Valley is a World Heritage Site is because of its industrial landscape arrested in a rural setting.
- A6 is a turnpike road introduced nearly two centuries ago and is one of the key transport routes developed along the Derwent Valley and is an attribute of the World Heritage Site.
- would have an adverse impact on Outstanding Universal Value of the World Heritage Site by losing the open, undeveloped and natural character of the site.
- development of the site as proposed will urbanise the setting of this section of the A6 and will create a site with domestic character that is incongruous to the naturalistic broadleaved woodland that surrounds it.
- unclear if existing wall would be set back on its alignment to accommodate sightlines which would represent an undesirable break in the extensive continuity of this historic built structure along the A6.

REPRESENTATIONS:

- A total of nine letters of representation from local residents objecting to the application. The comments can be summarised as follows:
 - detrimental impact on World Heritage Site where any plans should preserve or enhance such sites.
 - visible from public areas.
 - impact of large white caravans and associated vehicles and business use – hard to see how could be more attractive in World Heritage site than holiday cabins.
 - site has been rejected for holiday cabin development.
 - believe development would jeopardise World Heritage Site status.
 - little scope for landscaping.
 - screening would take time to establish.
 - fence would be obtrusive.
 - adverse impact on tourism and local business and would devalue local property prices.

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- dangerous location for young children with proximity of A6, canal, railway line and River Derwent.
- no bus service, shops, doctors or schools nearby.
- no privacy.
- noise nuisance to site residents.
- noise nuisance to local residents from generators on the site and vehicle noise and movements.
- highway safety.
- no sanitation, running water or electricity.
- site has not in the last 10-20 years been used regularly for vehicle access.
- evaluation matrix in report to District Council's Corporate Committee (22.01.13) has no explanation why site was considered to pass.
- the family do not want to move to Homesford – priority should be to find suitable sites in Ashbourne due to family member requiring constant medical treatment
- inappropriate site for the needs of the gypsy community.
- impact of running a business from the site on World Heritage Site and major tourist area.
- cost of site and its development will be excessive and cannot be justified.
- loss of employment on the site.
- would be an unmanaged site with potential to become overcrowded.
- Planning Policy for Traveller Sites states that number of pitches should relate to surrounding population density – proportion of gypsy households to resident households in Homesford would be unreasonably high.
- site does not lend itself to preferred circular layout for caravans.
- site currently being illegally occupied.
- lack of consultation.

POLICIES:

1. Adopted Local Plan (2005)
 - SF4 Development in the Countryside
 - SF5 Design and Appearance of Development
 - H15 Accommodation for Gypsies
 - 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
 - TR8 Parking Requirements for New Development
2. Pre-submission Draft Local Plan (2013)
 - Strategic Policy 1 - Sustainable Development Principles
 - Strategic Policy 3 - Protecting and Enhancing the Natural and Historic Environment
 - Strategic Policy 11 - Accessibility
 - 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 8 - The Historic Environment
 - Development Management Policy 9 - Design and Appearance of Development
 - Development Management Policy 19 – Gypsies, Traveller and Travelling Show People

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Development Management Policy 22 - Access and Parking

3. Government Guidance
National Planning Policy Framework (March 2012)
Planning Policy for Traveller Sites (March 2012)

ISSUES:

1. 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 various planning applications submitted between 1930s and 1960s for development on the site including a residential development of thirty dwellings, a transport café and a petrol filling station, all of which were refused.

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 currently exists a number of planning enforcement issues in regard to the unauthorised chalet and storage containers on the site. Recent planning applications (13/00838/FUL) for eight holiday lodges and (14/00117/FUL) for six holiday lodges on the site were refused permission in January and May respectively for the following similar reason:

'The scale of development proposed, as detailed in the amended drawings received on 24th January 2014, 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. Planning Policy Context

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.

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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 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.

The Adopted Derbyshire Dales Local Plan does not have any allocated sites for Gypsies and Travellers and applications have to be determined against the criteria based Policy H15. The purpose of Policy H15 is to allow assessment of individual applications for planning permission.

Policy H15 is permissive of Gypsy and Traveller sites in responding to identified needs provided that: -

- a) The site is close to a road network, with good access to and from it, and public transport services, and
- b) is within reasonable travelling distance of local services and facilities, and
- c) will be provided with a reasonable level of services, including water, electricity and sewage disposal, and
- d) will be well drained and able to accommodate flat areas of hardstanding suitable for caravans and other associated vehicles, and
- e) where necessary is able to incorporate a separate area or areas where business activities can be carried out without harming amenity, and
- f) will provide an acceptable standard of living conditions to residents, and
- g) where necessary is sufficiently distant from established areas to avoid harm to living conditions arising from noise or other disturbance due to movement of vehicles, and
- h) does not cause harm to the character and appearance of the area.

However, recent Government policy (*Planning Policy for Traveller Sites*) published in March 2012 alongside the National Planning Policy Framework, effectively supersedes Policy H15 and advises that Local Planning Authorities should identify and update a supply of specific deliverable sites sufficient to provide five years worth of sites against their locally set targets. The implication of this policy is that where there is an identified need to provide sites for Gypsy and Travellers, provision should be made as part of the planning process rather than relying upon a criteria based policy approach.

Government policy advises that if a Local Planning Authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. At the present time, the Local Planning Authority has not made any provision for Gypsy and Traveller sites.

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The Government's 'Planning Policy for Traveller Sites' states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies of the NPPF and the planning guidance for traveller sites. It also states that the Government's overarching aim is:

'to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of a settled community.'

In this regard, the following considerations are relevant matters when considering planning applications for traveller sites:

- the existing level of local provision and need for sites;
- the availability (or lack) of alternative accommodation for the applicants;
- other personal circumstances of the applicant;
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- applications for sites from any travellers and not just those with local connections.

The Policy further advises that Local Planning Authorities should also ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community and avoid placing an undue pressure on the local infrastructure. When considering applications, Local Planning Authorities should attach weight to the following matters:

- effective use of previously developed (brownfield), untidy or derelict land;
- sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children.
- not enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

Paragraph 6 of the National Planning Policy Framework (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 Derwent Valley Mills World Heritage Site.

The proposal also has to be assessed in the context of the Pre-Submission Draft Local Plan (2013). Development Management Policy 19 is the most pertinent and states that planning permission will be granted for the provision of sites to meet the proven accommodation needs for Gypsies, Travellers and travelling show people provided that :

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- (a) there remains an unmet need for sites for gypsies, travellers and travelling show people within the plan area;
- (b) the development does not have an adverse impact upon the character or appearance of the landscape or sites/areas of nature conservation value;
- (c) the site is well located on the highway network and provides safe and convenient vehicular and pedestrian access which is appropriate for roads in the area;
- (d) the site can accommodate parking provision;
- (e) the site is situated in a sustainable location with good access to local facilities and services such as education, health and employment opportunities;
- (f) the site can be provided with a reasonable level of services including water, electricity and sewage disposal
- (g) the site is not visually intrusive nor detrimental to the amenity of residents in nearby established residential areas;
- (h) the site would not cause harm to the character and appearance of the area; and
- (i) adequate levels of privacy and residential amenity for site occupiers can be provided.

However, this policy is yet to be adopted and can therefore only be afforded limited weight. Equally, this applies to the other policies of the emerging Local Plan referred to above in the 'Policies' section.

There are several other policies of the Adopted Local Plan which are of particular relevance to the consideration of the planning application. 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, TR1 and TR8.

3. Meeting Gypsy and Traveller Needs

It is important to understand the means by which the needs of the Gypsy and Traveller community have, and are being addressed in Derbyshire as a whole. Post-dating the Adopted Local Plan (2005), the Derbyshire Gypsy and Traveller Accommodation Assessment (GTAA), published in 2008, sought to evaluate the need for additional authorised Gypsy and Traveller site provision within Derbyshire over at least the next five years, identifying broad locations for additional sites and establishing whether transit sites/emergency stopping places are required, and whether extra site provision should be public or private.

The GTAA looked at pitch provision and the requirements for Gypsy and Traveller/show people across Derbyshire, concluding that there were 93 unauthorised pitches within the county, largely focused in north east and south Derbyshire. For the purpose of clarification, a pitch is an area which is large enough for one household to occupy and typically contains enough space for two caravans. At that time there were two authorised camps in the District.

The study considered the pitch requirements over the next 5 years from 2007 and identified a need for an extra 58 pitches across Derbyshire, recognising that over the longer term there would be a requirement for an additional 15 pitches to be found every 5

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years based on population projections. The identified requirement for the Derbyshire Dales was two pitches. The study recommended that further work would be required to update the assessment to look beyond 2021 and to consider if it is possible to share pitch requirements between local authorities.

The Derbyshire Gypsy and Traveller Accommodation Assessment (GTAA) is currently under review, and in this regard, there remains an acknowledged need for Gypsy and Traveller site provision within the Derbyshire Dales. At the present time, there are no sites committed to meeting this need. Therefore, in accordance with Government policy (*Planning Policy for Traveller Sites*) and the NPPF, the lack of identified site provision is a significant material consideration to be taken into account in the determination of this application.

4. Sustainability and Access

The thrust of national policy is to seek to locate sites where residents have good access to local facilities and services and where the traveller community can achieve a greater integration with mainstream residential development. Notwithstanding this, the identification of sites for the Gypsy and Traveller community is often problematic in rural areas where land within settlement boundaries is seldom available. Inevitably, any search for suitable sites will need to have regard to land adjoining or near to settlements and the site options are likely to be sub-optimal.

At the heart of national and local planning policy is the desire to achieve sustainable forms of development. This consists of three dimensions: social, economic and environmental. The re-use of a brownfield site is a sustainable form of development as this relieves pressure to develop greenfield sites. In this respect, this should contribute to protecting or enhancing the environment. This is particularly important as the site is located in a prominent location at the gateway to the Derwent Valley Mills World Heritage Site. In this context, the current proposals are given further consideration elsewhere within this report.

In terms of employment, the site currently has a degree of potential as it's last / current use was as a woodyard. However, the potential for employment use on the site would be limited given the physical site constraints and the isolated rural location. This interrelates with the social role for sustainability.

Having regard to the above, it needs to be recognised that the site is located in the open countryside away from any significant settlement. Whilst there is public transport within walking distance, access to shops, employment, schools, health services and other services would be likely to lead to a heavy reliance on motor vehicles for residents of the site. As such, it is considered that the proposed traveller site performs poorly against the core principles for sustainable development contained in the NPPF and within Policy SF4 of the adopted Local Plan (2005).

However, it must be acknowledged that providing for the needs of the traveller community on optimal sites within existing settlements can be difficult, principally due to limited supply and the competing demand for higher end value land uses. In this respect, sites that may be on the edge of a settlement, or which have reasonably good links to towns will inevitably be the focus of attention and will require consideration.

Government Policy in the document '*Planning Policy for Traveller Sites*' advises that if there is a lack of affordable land to meet local traveller needs, Local Planning Authorities

14/00133/FUL (Continued)

should consider allocating and releasing sites solely for affordable traveller sites, enabling small sites to be used, in small rural communities, that would not normally be used for traveller sites (Policy D: Rural Exception Sites). This is principally aimed at those travellers who are current residents or have existing family or employment connection.

The DGLG have not imparted who the residents of the site would be. However, it is considered that the policy does allow for consideration of small sites in rural areas where there may be no sites forthcoming in or adjacent to settlements. This is also reflected to some extent in Policy C: Sites in Rural Areas and the Countryside, which advises that when assessing sites in rural areas, Local Authorities should ensure that the scale of such sites does not dominate the nearest settled community.

5 Protection of the Local Environment

The location of the site within the Derwent Valley Mills World Heritage Site is clearly a material consideration that needs to be taken into account. An assessment therefore needs to be undertaken as to the potential impact of the development on the character and appearance of the open countryside, having particular regard to the site being prominently sited within the World Heritage Site.

The site itself is well contained within the valley and by the surrounding woodland. As a result, it is not widely visible within the surroundings except from the road and from the footpath and possible acute views from cottages at Homesford. The applicant has proposed a planting strip of between 3-5m deep along the road frontage and a 2m high close boarded fence to the rear of this in order to provide a screening of the site and to provide privacy to the residents.

However, notwithstanding the above, the site is within a historically important and attractive landscape. Whilst the applicant has proposed landscaping by way of mitigation, the extent of area proposed to be landscaped will take some considerable time to establish itself before it would effectively screen the caravans and other associated paraphernalia. In the meantime, the proposed close boarded fences would create a sub-urban character and appearance to the site while the planting is seeking to establish and screen it. In addition, the screen of planting would ultimately be an obvious screen of the site to accommodate the development. In this regard, it is considered that there would be an adverse impact on local landscape character as a result of the development.

Given the above, it is considered that the development would fail to comply with the core principles for protecting the character and appearance of the open countryside and areas of historic importance as contained in the NPPF and reflected in Policies SF4, SF5, H15, NBE8 and NBE25 of the Adopted Local Plan.

6. 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 regarding the attractiveness of the location to travellers and the consequential impact of road noise etc upon them. However, it has to be acknowledged that, in putting the site forward for such a proposal, the applicant is presumably satisfied that adequate levels of amenity can be achieved for the travellers residing on the site.

14/00133/FUL (Continued)

In terms of proximity to existing local residents, the proposed development would not significantly harm privacy given a relative distance of some 40m between the nearest proposed pitch and the nearest existing dwellinghouse. There may be noise generation dependent on employment activities that may take place on the site. However, disturbance would not necessarily occur and, if this was the case, it would be a matter for consideration under Environmental Health legislation.

7. Highway Issues

The Local Highway Authority has raised no objection to the proposal given the repositioning of the access but requests that conditions be attached to any grant of planning permission with respect to providing the proposed access with appropriate visibility splays and providing for parking and manoeuvring space.

The application site does not include the existing access to the wider site, and the Local Highway Authority has advised that this should be closed off with previous planning applications. However, it is considered that the proposed access is adequate to serve the proposed traveller site and the existing access would be adequate to serve the remainder of the site. If any planning application were to be submitted for the remainder of the site, that may intensify its current usage, this would be likely to be open to objection by the Local Highway Authority.

8. Other Issues

Natural England advised on a 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 has objected to the proposal as the site is defined as being within a flood zone. The applicant recognises that part of the site is located within Flood Zone 2 but that the area proposed for the caravan pitches is on a raised level of land outside the flood zone. In this respect, the District Council considers that the objection of the Environment Agency cannot be sustained.

9. Conclusion

The consideration of this application needs to balance two conflicting issues. On the one hand, there is an acknowledged local need and a Government policy requirement to provide sites for Gypsy and Traveller communities. Government Policy makes it clear that Local Planning Authorities should identify a five year supply of sites and the absence of such an identified supply places a presumption in favour of the granting planning permission to meet identified needs. In the absence of any existing provision or other sites being identified within the Derbyshire Dales, there is a strong presumption in favour of granting planning permission for this site.

On the other hand, the location of the site within the Derwent Valley Mills World Heritage site and the unsustainable nature of the location would not be conducive to the site providing a permanent long term solution to meeting identified needs unless other exceptional circumstances existed.

14/00133/FUL (Continued)

On the basis of latest available evidence, there is an acknowledged need for Gypsy and Traveller site provision within the Derbyshire Dales. In the absence of any alternative site provision being made, favourable consideration must be given to the application site as having potential to meet the current need at least in the short term. However, the site is not considered suitable to meet the needs of Gypsy and Traveller community in the long term for the reasons outlined above. Therefore, in recognition of the current need to provide a site, it is considered that a temporary planning permission for a period of 3 years would be justified. This will enable the District Council to meet its current obligations in accordance with Government Policy, secure the completion of the revised Derbyshire GTAA and enable the District Council to consider the implications of that study in terms of any permanent provision that may be required.

The recent refusals of planning permission for holiday lodge developments on this site involved the development of the whole of the site for a permanent form of development. The current proposals restrict development to only 50% of the site and are only considered appropriate for a temporary period. Whilst many of the concerns expressed in the previous refusals apply equally to the current application, the weight of Government planning policy which requires provision to be made for the Gypsy and Traveller community weighs in favour of planning permission being granted.

For the avoidance of doubt, there is no presumption that a temporary planning permission should become permanent.

OFFICER RECOMMENDATION:

That temporary planning permission for a period of 3 years be granted subject to the following conditions:

1. The use hereby permitted shall cease on or before 30th June 2017 and the land shall be restored to its former condition. All caravans, vehicles, fences and any other structures erected on the land pursuant to the approved use shall be permanently removed from the site immediately upon cessation of the use hereby permitted.
2. The use hereby permitted shall be limited to the provision of 3 no. pitches.
3. Before the development hereby permitted is first brought into use, the close boarded fencing shall be erected in accordance with the details submitted to and approved in writing by the Local Planning Authority. The fencing once approved shall delineate the pitches in accordance with the details shown on the approved drawing and shall be retained as such for the life of the development.
4. Condition LA13a Landscaping to be Carried Out and Maintained
5. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents/visitors/ service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. Parking spaces shall measure a minimum of 2.4m x 4.8m.
6. Before any other operations are commenced a new vehicular access shall be created to Derby Road (A6) in accordance with the revised application drawings, laid out, constructed and provided with 2.4m x 149m visibility splays in both directions, the area

14/00133/FUL (Continued)

in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

7. The access, the subject of condition No 2 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.
8. Before the site is first occupied and prior to any subsequent re-occupation by new residents details of the proposed occupants in terms of their traveller credentials and local connections shall be submitted to the Local Planning Authority. The site shall not be occupied or re-occupied by any party without the Council first confirming in writing their eligibility to occupy the site.

Reasons:

1. To define the temporary permission for the avoidance of doubt.
2. For the avoidance of doubt in accordance with the terms of the application.
3. To safeguard the visual amenity of the site and the amenity of occupiers of the site to comply with Policies SF4, SF5, H15, NBE8, NBE25 and NBE26 of the adopted Derbyshire Local Plan, Development Management Policies 2, 6, 8 and 9 and government guidance contained in Planning Policy For Traveller Sites and the National Planning Policy Framework.
4. To safeguard the visual amenity of the site to comply with Policies SF4, SF5, H15, NBE8, NBE25 and NBE26 of the adopted Derbyshire Local Plan, Development Management Policies 2, 6, 8 and 9 and government guidance contained in Planning Policy For Traveller Sites and the National Planning Policy Framework.
5. To ensure the provision of adequate on-site parking in the interests of highway safety to comply with Policy TR8 of the adopted Derbyshire Local Plan, Development Management Policy 22 and government guidance contained in Planning Policy For Traveller Sites and the National Planning Policy Framework.
- 6-7 In the interests of highway safety to comply with Policy TR1 of the adopted Derbyshire Local Plan, Development Management Policy 22 and government guidance contained in Planning Policy For Traveller Sites and the National Planning Policy Framework.
8. To exercise control over occupation of the site as the site is being provided to meet the specific needs of the traveller community associated with Derbyshire Dales. Such provision is being made as an exception to other policies which strictly control and restrict residential development in open countryside. To accord with the aims of Policies H15 of the Derbyshire Dale Local Plan Policy DM19 of the submission draft Derbyshire Dales Local Plan and summarise in the National Planning Policy Framework.

14/00133/FUL (Continued)

NOTES TO APPLICANT:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (01629 538595 and ask for Mr Andy Maltby) before any works commence on the vehicular access within highway limits.
2. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
4. The Local Planning Authority considered the merits of the submitted application. It was judged that there was a balanced consideration of the needs of the traveller community, having regard to matters of sustainable development, and the negative impact that the development would have on the character and appearance of the countryside and the Derwent Valley Mills World Heritage site and hence the granting of a temporary planning permission.
5. This decision notice relates to the following documents:
 - Site Location Plan 1:2500 received on 6th March 2014
 - Block Plan 1:500 received on 6th March 2014
 - Supporting Statement received on 6th March 2014
 - Additional Information received on 28th April 2014

NOT CONFIDENTIAL - For public release

CENTRAL PLANNING COMMITTEE – 3rd JUNE, 2014

DISTRICT COUNCIL TREE APPLICATIONS/NOTIFICATIONS

Progress report for May 2014

APPLICATIONS TO CARRY OUT WORKS TO PRESERVED TREES:

TPO NO.	ADDRESS/APPLICATION	DECISION/COMMENT
98	BIRCH GROVE, 82a LUMSDALE ROAD, UPPER LUMSDALE, MATLOCK FELLING OF TWO SYCAMORES Reasons: Dangerous PRUNING OF WILLOW Reasons: Not given	PENDING DECISION
62 & 109	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	PENDING DECISION
21	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	PENDING DECISION
10	LAND ADJACENT TO 9 PORTEOUS CLOSE, TWO DALES PRUNING OF WEEPING BEECH Reasons: To allow safe passage of vehicles Overhanging adjacent property Overhanging path	PENDING DECISION
43	28 BANK GARDENS, MATLOCK FELLING OF SILVER BIRCH Reasons: Disproportionally large for garden Negative amenity value Blocks light to dwellings Leaves block guttering and drains Close to retaining wall Close to services	PENDING DECISION
119	ST ELPHIN'S PARK, DARLEY DALE PRUNING & FELLING TREES Reasons: In the interests of Health & Safety	PENDING DECISION

TPO NO.	ADDRESS/APPLICATION	DECISION/COMMENT
	For the purposes of sound arboricultural management	
66	116 CHURCH STREET, MATLOCK TOPPING OF A SYCAMORE STEM Reasons: Lost a large limb Adjacent to footpath	CONDITIONAL CONSENT
131	LAND ADJACENT TO THE RIVERSIDE RESTAURANT, SOUTH PARADE, MATLOCK BATH PRUNING OF BEECH Reasons: Branches touching building Safety	PENDING DECISION
35	100 CAVENDISH ROAD, MATLOCK PRUNING OF TREES Reasons: Concerns regarding weak cavity at old pruning wounds/cuts	PENDING DECISION
9	LAND TO THE SOUTH OF 3 COPSE CLOSE, WIRKSWORTH PRUNING OF TREES Reasons: To maintain at a suitable height To reduce the risk of branches snapping out	PENDING DECISION
35	81 CAVENDISH ROAD, MATLOCK PRUNING & FELLING OF TREES Reasons: To maintain views To improve light in woodland to facilitate replanting	PENDING DECISION

NOTIFICATIONS OF INTENTION TO CARRY OUT WORKS TO TREES IN CONSERVATION AREAS:

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
MATLOCK BANK	ST JOSEPH'S CATHOLIC PRIMARY SCHOOL, CHESTERFIELD ROAD, MATLOCK PRUNING & 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	PENDING DECISION
MATLOCK BATH	YEW TREE COTTAGE, UPPERWOOD, MATLOCK BATH FELLING OF FIR	PENDING DECISION

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
	Reasons: Excessive shading Top section broke off last year	
WIRKSWORTH	CLARE COTTAGE/THE OLD COACH HOUSE, GATEHOUSE DRIVE, WIRKSWORTH FELLING OF BEECH Reasons: Poor condition of tree	PENDING DECISION
MATLOCK BANK	ALL SAINTS VICARAGE, SMEDLEY STREET, MATLOCK FELLING & PRUNING OF TREES Reasons: Unsafe Obscuring light to house Overhanging the roof	PENDING DECISION
CROMFORD	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	PENDING DECISION
MATLOCK BATH	WAPPING NATURE RESERVE, CLIFTON ROAD, MATLOCK BATH POLLARDING OF ASH Reasons: Structural failure.	PENDING DECISION
WIRKSWORTH	YOKECLIFFE HOUSE, WEST END, WIRKSWORTH PRUNING & FELLING OF TREES 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	PENDING DECISION
WIRKSWORTH	DALE WOOD, WEST END, WIRKSWORTH FELLING OF TREES Reasons: To maintain longterm stability & continuity of the woodland	PENDING DECISION
WIRKSWORTH	11 WASH GREEN, WIRKSWORTH FELLING OF GOAT WILLOW Reasons: Excessive shading Poor location	PENDING DECISION

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
LUMSDALE	MOORLAND VIEW, UPPER LUMSDALE, MATLOCK FELLING OF A SPRUCE & LARCH Reasons: Not given	PENDING DECISION
RIBER	THE HERMITAGE, RIBER ROAD, RIBER 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 To provide space for the development of the neighbouring tree	PENDING DECISION
MATLOCK BATH	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	PENDING DECISION
MATLOCK BATH	YEW TREE COTTAGE, UPPERWOOD ROAD, MATLOCK BATH PRUNING OF TWO TREES Reasons: Not given	PENDING DECISION
MATLOCK BATH	ROCK WEIR, NEW BATH ROAD, MATLOCK BATH PRUNING & FELLING OF TREES Reasons: Growing out of boundary wall To remove liability for damage to parked cars	PENDING DECISION
WIRKSWORTH	DALE WOOD, WEST END, WIRKSWORTH FELLING OF TREES Reasons: Safety To allow other trees to develop	PENDING DECISION
OLD MATLOCK	THE HARRISON ALMSHOUSES, 3 – 11A MATLOCK GREEN, MATLOCK PRUNING OF WEEPING ASH Reasons: To provide clearance from overhead cables FELLING OF WEEPING ASH Reasons: Fungal decay in the stem FELLING OF CYPRESS	PENDING DECISION

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
	Reasons: Light to properties	
CROMFORD	DERWENT HOUSE, WILLERSLEY LANE, CROMFORD PRUNING OF TWO YEW TREES Reasons: Not given FELLING OF THREE TREES Reasons: Leans over garden Suppressing adjacent tree Very close to building Causing heavy shading	PENDING DECISION
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
BOLEHILL	9 NAN GELLS HILL, BOLEHILL FELLING OF WALNUT Reasons: Dead FELLING OF HORSE CHESTNUT Reasons: Bark wounds Deep cavity in trunk	PENDING DECISION
LUMSDALE	THE STABLE YARD, UPPER LUMSDALE, MATLOCK FELLING OF TWO BEECH TREES Reasons: Excessive rot Damage to wall Threat to neighbouring outbuilding	NO OBJECTIONS
MATLOCK BANK	6 JACKSON TOR ROAD, MATLOCK PRUNING OF TREES Reasons: Not given	NO OBJECTIONS
MATLOCK BATH	DERWENT AMUSEMENTS, 64 – 70 NORTH PARADE, MATLOCK BATH FELLING OF ASH TREES Reasons: Damaging retaining wall	NO OBJECTIONS

CONS. AREA	ADDRESS/PROPOSED WORKS	DECISION/COMMENT
OLD MATLOCK	62 – 64 CHURCH STREET, MATLOCK FELLING OF TREES Reason: Excessive shading Potential size Dying	NO OBJECTIONS
MATLOCK BRIDGE	43 DALE ROAD, MATLOCK PRUNING OF HORSE CHESTNUT Reasons: Encroaching on adjacent building	NO OBJECTIONS
OLD MATLOCK	MATLOCK GREEN SERVICE STATION, MATLOCK GREEN, MATLOCK FELLING OF MULTI-STEMMED ASH Reasons: Not given	PENDING DECISION
WIRKSWORTH	CHURCH VIEW, 2 THE CROFT, GREENHILL, WIRKSWORTH FELLING OF FLOWERING CHERRY Reasons: Outgrown location Perceived threat to two houses Affecting retaining wall	PENDING DECISION
MATLOCK BANK	68 WELLINGTON STREET, MATLOCK PRUNING & FELLING OF TREES Reasons: Not given	PENDING DECISION
LUMSDALE	PINECROFT, UPPER LUMSDALE, MATLOCK PRUNING & FELLING OF TREES Reasons: Not given	PENDING DECISION
WIRKSWORTH	24 NORTH END, WIRKSWORTH FELLING OF CHERRY Reasons: Excessive size Shading	PENDING DECISION
BONSALL	LAND TO THE NORTH OF 2 HOLLOW BROOK, CLATTERWAY, BONSALL FELLING OF THREE ASH TREES Reasons: Large cavity in base Dangerous Remaining trees, very spindly, would be exposed to winds Potential to reach dwelling	PENDING DECISION
MATLOCK BANK	1 CHESTERFIELD ROAD, MATLOCK PRUNING OF OAK TREE Reasons: Starting to encroach on neighbouring property	PENDING DECISION

OFFICER RECOMMENDATION: That the report be noted.

CENTRAL PLANNING COMMITTEE – 3rd JUNE, 2014

COUNTY COUNCIL TREE APPLICATIONS

Progress report for May 2014

CONSULTATIONS RECEIVED ON APPLICATIONS TO CARRY OUT WORKS TO TREES PROTECTED BY A DERBYSHIRE COUNTY COUNCIL TREE PRESERVATION ORDER:

TPO NO.	ADDRESS/APPLICATION	DCC DECISION/COMMENT
123	ROCK LODGE, 69 DERBY ROAD, CROMFORD PRUNING & 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	PENDING DECISION
88	LAND ADJACENT TO 36 PARK AVENUE, DARLEY DALE PRUNING OF LIME Reasons: Overhanging neighbouring drive	PENDING DECISION
88	LAND TO THE REAR OF 9 PEAKLAND VIEW, DARLEY DALE FELLING OF ASH Reasons: Declining Pushing wall Outgrown location	PENDING DECISION
88	NORTH LODGE, WHITWORTH ROAD, DARLEY DALE PRUNING & FELLING OF TREES Reasons: To facilitate inspection for Ustulina To maintain as a hedge Poor specimens suppressed by larger Sycamore To improve light	PENDING DECISION
88	LIMESTONES, DALE ROAD NORTH, DARLEY DALE FELLING OF LIME Reasons: Evidence of Ganoderma fungi Decay in trunk Limited rooting area High risk target area PRUNING OF LIME Reasons: To improve safety Dieback/deadwood Wound/cavity at 3.5 metres	PENDING DECISION

OFFICER RECOMMENDATION: That the report be noted.

PLANNING APPEAL - PROGRESS REPORT

Report of the Director of Planning & Housing Services

12/00656/FUL	Land opposite 52 Greenhill, Wirksworth	WR	Appeal being processed
ENF/12/00099	Tipsy Cottage, 14 Main Road, Darley Bridge	WR	Appeal Dismissed – Decision Letter Attached
13/00138/FUL	Land off Flash Lane, Farley	WR	Appeal being processed
13/00417/FUL	The Three Stags, Darley Dale	WR	Appeal being processed
T/13/00112/TPO	9 Hackney Road, Hackney	IH	Appeal being processed
13/00569/FUL	27 Greenhill, Wirksworth	WR	Appeal being processed
13/00479/FUL	Barnes Croft, Canterbury Road, Wirksworth	WR	Appeal being processed
13/00779/FUL	Trevelyan House, Dimple Road, Matlock	WR	Appeal being processed

WR - Written Representations

IH - Informal Hearing

LI - Local Inquiry

PI – Public Inquiry

HH – Householder

OFFICER RECOMMENDATION:

That the report be noted.

DERBYSHIRE DALES D.C. PLANNING & HOUSING SERVICES	
20 MAY 2014	
OFFICER	
REF	

Appeal Decisions

Site visit made on 22 April 2014

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 20 May 2014

Appeal A Ref: APP/P1045/C/13/2204244

Appeal B Ref: APP/P1045/C/13/2204245

Land at Topsy Cottage 14 Main Road Darley Bridge DE4 2JY

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mrs E J Rice (Appeal A) and Mr S G B Rice (Appeal B) against an enforcement notice issued by Derbyshire Dales District Council.
- The Council's reference is PLS/AJ/JP/018.10.
- The notice was issued on 5 August 2013.
- The breach of planning control as alleged in the notice is without planning permission, the creation of an unauthorised vehicular access onto a classified road.
- The requirements of the notice are to reinstate the roadside wall in materials to match the existing stone and to its previous length and height prior to the recent works being undertaken.
- The period for compliance with the requirements is 90 days.
- The appeals proceeding on the grounds set out in section 174(2) (d) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Appeal A and B - Decisions

1. Both Appeal A and B are dismissed.

Appeal A and B – Ground (d)

2. The onus of proof is squarely upon the appellants in these appeals. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellants' version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is, on the balance of probability, sufficiently precise and unambiguous.
3. Section 55 (1) of the Town and Country Planning Act 1990 as amended ('the Act') includes in the definition of the word '*development*' the carrying out of *building or other operations in, on, over or under land* [my emphasis]. Section 57 (1) states that, subject to the provisions of the section, planning permission is required for the carrying out of any development of land. Section 55 (1A) states that for the purposes of the 1990 Act '*building operations*' includes (a) demolition of buildings (b) rebuilding (c) structural alterations of or additions to buildings and (d) other operations normally undertaken by a person carrying on business as a builder. Section 171A (1) (a) states that the carrying out of development without the required planning permission constitutes a breach of planning control.

4. Effectively, the appellants' proposition is that the alleged breach is immune from enforcement action due to the passage of time. Before I evaluate this assertion, it is necessary to consider the argument that planning permission is not required for the demolition of the front wall because the site is not located within a designated Conservation Area.
5. The undisputed facts are that the stone wall which defined the site's front boundary has been physically demolished. The frontage to the dwellinghouse has been hard surfaced. In all probability a single building operation has been carried out due to the nature and type of the work. The design and layout of the frontage suggests a significant element of pre-planning. These operations would normally be undertaken by a person carrying on business as a builder. The location of the access together with the scale of the building operations suggests that the work is integral to the use of the frontage for car parking. For planning purposes, the demolition of the front wall and the creation of hard standings is a building operation and constitute 'development'.
6. The development might benefit from a deemed planning permission by virtue of permitted development (PD) rights¹. The PD rights relate to the creation of a vehicular access. However, the site is located on a highway which is classified as the B5057. On that basis the development is not permitted by Class B because the formation of the means of access is off a classified highway. Therefore, express planning permission is required and it has not been granted.
7. Where there has been a breach of planning control consisting in the carrying out without planning permission of building operations, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed. In this context, the appellants should show that the creation of an unauthorised vehicular access onto a classified road was substantially completed on or before 5 August 2009, which is the relevant date [my emphasis]. In this context, the problem is that there is a general lack of detailed information to support the appellants' assertions. For example, the submitted evidence does not show how or when the work was carried out nor does it show the order or sequence of the building work. Given the lack of evidence from the appellants, it is unclear from the written representations as to the type or scale of the building operations.
8. It is not that uncommon for evidence to be adduced to show substantial completion of building operations from documentary information. This can be in the form of receipts or invoices for building work or the purchase of materials for the development. No such evidence has been tendered. Therefore, it is difficult to draw any firm conclusions about the nature of the building operations and when they were substantially completed.
9. There is an added complexity. At the date the notice was issued a fence had been erected by way of bolts into the ground to ensure that there is no vehicular access onto a classified road². On face value, there is a possibility that the building operations were substantially completed once the fence had been constructed because of its location and design. There is no written evidence from the appellants to discount this possibility.

¹ Article 3, Schedule 2, Part 2 Class B of the Town and Country Planning (General Permitted Development) Order 1995 as amended.

² Appellants' grounds of appeal and letter dated 22 September 2013.

Conclusion on ground (d)

10. Taking all of the above points together and the balance of probabilities, I find that the presented evidence does not sufficiently show that the works involved in the creation of the vehicular access, as alleged in the notice, were substantially completed on or before 5 August 2009. This is because the totality of the evidence lacks precision and is ambiguous. The onus has not been discharged. Therefore, I conclude that the appeals on ground (d) must fail.

Appeal A and B – Ground (f)

11. The notice should specify the steps which the Council require to be taken, in order to achieve, wholly or partly, the purposes set out in Section 173 (4) (a) and (b) of the Act. Those purposes are the following: (a) Remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or (b) remedying any injury to amenity which has been caused by the breach. That purpose should be reflected in the wording of the notice's requirements. From the wording of the notice it seeks to remedy the breach by restoring the land to its condition prior to the breach occurring. That is reflected in the reasons for the issuing of the notice, which relate to the potential harm to highway safety given the location of the vehicular access. In these appeals, it is necessary to consider whether or not the requirement is excessive and it is squarely down to the appellants to make their own case out.
12. The nub of the appellants' main argument is that the erection of a timber fence '*...has removed the need for the planning enforcement*' because it stops the use of the front as an off-street car parking space. However, no specific details of the nature of the fence or its overall height have been submitted. On the other hand, I find the notice is quite specific and clear because it requires the reinstatement of the roadside wall in matching materials to the one which previously existed. It is reasonable to assume that the appellants are best placed to know what existed prior to the unauthorised development.
13. Taking all of the above points together, nothing short of full compliance would remedy the breach of planning control. Therefore, the steps required to comply with the notice are not excessive. The appeals on ground (f) fail.

Appeal A and B - Overall conclusions

14. For the reasons given above and having considered all other matters, I conclude that the appeals lodged under grounds (d) and (f) should not succeed. The enforcement notice is upheld.

A U Ghafoor

Inspector