22 August 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 2 September at 6.00 pm in the COUNCIL CHAMBER, TOWN HALL, MATLOCK DE4 3NN.

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS The Committee is advised a coach will leave the TOWN HALL MATLOCK at 2.45pm prompt. A schedule detailing the sites to be visited is attached to the agenda.

1. APOLOGIES/SUBSTITUTES

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

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

5 August 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 planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed.

4.1 APPLICATION NO. 14/00374/FUL (Site Visit)  
First floor rear extension at 35 Coldwell Street, Wirksworth

4.2 APPLICATION NO. 14/00375/LBALT (Site Visit)  
Alterations to listed Building – first floor rear extension at 35 Coldwell Street, Wirksworth

4.3 APPLICATION NO. 14/00398/FUL (Site Visit)  
Residential development of 5 dwellings comprising three houses and 2 flats with associated access and parking at Chestnut Farm, Uppertown, Bonsall

4.4 APPLICATION NO. 14/00437/OUT (Site Visit)  
Erection of three storey building for hotel and ancillary restaurant/bar together with car parking and ancillary works at land between bakewell road and Arc Leisure Centre,

4.5 APPLICATION NO. 14/040/FUL (Site Visit)  
Erection of bungalow (outline) at Ivy House, Nottingham Road, Tansley

5. APPEALS PROGRESS REPORT

To note a report on appeals to the Planning Inspectorate.

NOTE

For further information about this Agenda or on the Public Participation initiative contact the Committee Team on 01629 761133 or e-mail committee@derbyshiredales.gov.uk.

Members of the Committee

Councillors David Burton, Robert Cartwright, Mrs Ann Elliot, David Fearn, Neil Horton, Mike Longden, Jean Monks, Garry Purdy, Mike Ratcliffe, Lewis Rose OBE, Andrew Statham, Geoff Stevens MBE, Mrs Jacque Stevens, Mrs Philippa Tilbrook, Barrie Tipping, Mrs Carol Walker, Ms Jo Wild.
Substitute Members
Councillors Mrs Jacque Bevan, Richard Bright, Steve Bull, Mrs Sue Burfoot, Albert Catt, David Chapman, Tom Donnelly, Richard FitzHerbert, Steve Flitter, Chris Furness, Cate Hunt, Angus Jenkins, Andrew Lewer, Tony Millward, Peter Slack, Colin Swindell, Mrs Judith Twigg

SITE VISITS
Members will leave the Town Hall, Matlock at 2.45pm prompt for the following site visits:

3.00pm Application No. 14/00374/FUL
35 COLDWELL STREET, WIRKSWORTH Requested by the Ward member to assess the impact of the proposal upon the amenity of neighbouring residents.

3.00pm Application No. 14/00375/LBALT
35 COLDWELL STREET, WIRKSWORTH
Requested by the Ward member given the need to assess the impact of the planning application.

3.30pm Application No. 14/00398/FUL
CHESTNUT FARM, UPPERTOWN, BONSALL
Requested by Ward Members to assess the impact on the character and appearance of the Bonsall Conservation Area, the design, scale and massing of the development, the impact on the amenity of neighbouring residents and matters of highway safety.

4.10pm Application No. 14/00437/OUT
LAND BETWEEN BAKEWELL ROAD AND THE ARC LEISURE CENTRE, MATLOCK
Required by Officers as the land is in the ownership of Derbyshire Dales District Council and to allow Members to make a full assessment of the impact of the development on the character and appearance of the area.

4.35pm Application No. 14/00404/FUL
IVY HOUSE, NOTTINGHAM ROAD, TANSLEY
Requested by Ward Member to assess the impact on the surrounding area.

5.00pm Return
COMMITTEE SITE MEETING PROCEDURE

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.
FIRST FLOOR REAR EXTENSION AT 35 COLDWELL STREET, WIRKSWORTH FOR MR. P. BAINES

Town Council: Wirksworth  
Application type: Full  
Date of receipt: 19.06.14  
Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:
The property is a three storey, Grade II listed dwellinghouse which dates from c.1800 and forms part of a terrace group of dwellinghouses. It is constructed with red brick, albeit the frontage has been rendered, and has a slate roof. The property is within the Wirksworth Conservation Area.

THE APPLICATION:
Full planning permission is sought for a first floor extension to the rear of the dwellinghouse. This is proposed to be set above a previous extension which comprises the kitchen. It is proposed to measure 2.1m deep by 2.1m wide and the roof is proposed to tie in with, and be a continuation of, the slope of the roof to the dwellinghouse. The extension is proposed to be constructed with matching red brick and slate. The applicant has submitted details of the proposed window that would be inserted into the rear elevation. The extension would provide for a first floor bathroom and this would allow the current bathroom to be returned to a bedroom.

RELEVANT HISTORY:
14/00375/LBALT First Floor Rear Extension – to be determined  
1292/0964 Alterations to listed building - Granted

CONSULTATIONS:
Town Council – No objection  
Local Highway Authority – No objection

REPRESENTATIONS:
A total of two letters of representation from neighbours. The comments can be summarised as follows:

- 33, 35 and 37 Coldwell Street date from around 1780, and were originally one house – “A Gentleman’s Residence” – before being divided up into three houses a long time ago

Impact on No.37
- planned extension is inappropriate for a Grade II Listed Building in a Conservation Area - will change the character of the property in a detrimental fashion
- will affect the integrity of the building as none of the two properties either side have an extension sticking out at that level
- extension will be very visible from neighbours’ patio and garden
- will seriously reduce the light available to son’s second floor bedroom (which directly abuts the new extension on the plans) - the room has small windows, is North Facing, and already suffers from poor amounts of daylight
- will affect the sunlight available for the first floor bedroom (not shown on the plans) whose only window is approximately 8 feet away from the edge of the extension – this will be particularly pronounced for afternoon sun
plans are incorrect as they do not show the full extent of the side of the extension when seen from most of the garden and upper windows at No 37 - have not included the majority of the bottom of the extension that will be very visible from all angles from neighbour’s house and garden
- extension when built will have much greater visual impact on views than shown
- casement window is not in keeping with those on the ground floor kitchen extension

Impact on No. 33
- loss of view leading to a loss of amenity
- will dramatically affect light available – could be construed as a nuisance under Ancient Lights laws
- will dominate the patio/garden area making it and the kitchen particularly dark at all times of the day
- existing (old) kitchen extension at No 35 already seriously affects light
- have omitted to shade all the new build on the north west elevation - ie the part of the extension that will be very visible to No 33 that is below the part currently shaded in red on the plan

Impact on No. 31
- will restrict and obscure open view leading to a loss of amenity
- will impede natural light, particularly the morning sun entering windows – could be construed as a nuisance under Ancient Lights laws

A letter of representation has been received from an interested party advising the following:
- important that the planned development is sympathetic to the listed building’s appearance
- support use of reclaimed bricks and slates from the rear elevation and replacement of modern windows with a more traditional design.

POLICIES:
1. Adopted Local Plan (2005)
   SF1 Development within Settlement Framework Boundaries
   SF5 Design and Appearance of Development
   H2 Extensions to Dwellings
   NBE16 Development Affecting a Listed Building
   NBE17 Alterations and Extensions to a Listed Building
   NBE21 Development Affecting a Conservation Area

2. Submission Draft Local Plan (2014)
   Development Management Policy 1 –Development within Settlement Framework Boundaries
   Development Management Policy 8 – The Historic Environment
   Development Management Policy 9 – Design and Appearance of Development

3. National Planning Policy Framework

Other:

Wirksworth Conservation Area Character Appraisal
ISSUES:

1. The principal matters for consideration are the impact that the extension will have on the character and appearance of the listed building and the Conservation Area and the impact on the amenity of neighbouring residents at 31, 33 and 37 Coldwell Street.

2. Neighbours have raised concerns with regard to the proposed extension changing the character of the property in a detrimental fashion and that it is considered this will also affect the integrity of the building as neither of the two properties either side have an extension at first floor level. However, in terms of its design, materials and its general character and appearance, Officers consider that such a two storey extension would preserve the character and appearance of the listed building and the Conservation Area. To some extent, the proposed extension would reflect on the projection of 31 Coldwell Street. In terms of amenity, the proposed extension has been assessed in the context of each of the immediate neighbouring dwellinghouses as follows.

3. Impact on No.37
   The extension is on the north eastern side of the neighbour’s windows. It is not considered to lead to a significant loss of light or outlook to the nearest bedroom window as the projection is only proposed to be some 2.1m and the roof of the extension would slope to below the window base level of this bedroom window. There is a further window and conservatory which could be affected but these are considered too far away to be affected significantly.

   Whilst the extension would be visible from neighbours’ patio and garden, again this is not considered so overbearing, in addition to the existing boundary wall, to lead to such a loss of amenity that would justify refusal of planning permission.

4. Impact on No. 33
   The existing dwellinghouse projects approximately 1m further out than No.33 and therefore, with the extension, the projection would be some 3.1m. No. 33 has a narrow plot and is constrained to the north-west by the rear projection of No.31. In this respect, the extension will lead to some degree of No. 33 being hemmed in between two projections.

   However, consideration has to be given that this property is north facing and that the kitchen window currently looks directly onto a retaining wall at close proximity and the proposed extension is not considered to cause such a loss of light to justify refusal or to affect the existing poor outlook from the window.

   The other windows are to bedrooms and, whilst light would be affected, this would be limited to the early morning sun, given the orientation. There would be some impact on outlook to the bedroom windows. However, much of the outlook would remain and the impacts are not considered to be so significant that a refusal of planning permission could be reasonably justified. With regard to the garden, there would be a degree of enclosure but much of this would be close to the building where light is already constrained.

5. Impact on No. 31
   The neighbour raises concern that their windows, which look towards the east and overlook the garden to 33 Coldwell Street, will have their view impacted upon by the extension. These are set some 5m away from the proposed extension. However,
there is no right to a view in planning legislation. The key issue is therefore loss of light and outlook. Whilst looking towards the east, direct sunlight would only be obscured by the extension for a small part of morning. In terms of outlook, much of this would be retained to the north east. The ground floor window is already compromised in its outlook by the boundary wall between Nos. 33 and 35 and the impact of the extension appearing above it, with its sloping roof, is not considered to have such an impact on the first floor window to justify refusal.

6. Given the above, it is evident that the extension will have some impact on the amenity of the residents at 31, 33 and 37 Coldwell Street. However, in analysing the impact on each property, it is considered that the proposal would not cause such harm to each of the individual properties that would justify reason for refusal. In terms of its physical impact, it is considered that the design and the extension is acceptable, although conditions will be required with respect to the materials to ensure these are appropriate for the listed building.

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

1. Condition ST02a Time Limit on Full

2. The works hereby approved shall be carried out in accordance with the original submitted plans and specification except as amended by the drawings received on 14th August 2014 and except as required by any other conditions to which this application is subject.

3. Notwithstanding the details on the approved drawings and specifications, the facing and roofing materials, and the rainwater goods, shall be reclaimed materials to match the existing dwellinghouse in accordance with samples to be submitted to and approved in writing prior to the commencement of the development. The extension shall thereafter be constructed with the approved materials.

Reasons:

1. Reason ST02a

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

3. To ensure the satisfactory appearance of the development to preserve the character and appearance of the Grade II listed building to comply with Policies SF1, SF5, H2, NBE16, NBE17 and NBE26 and with government guidance contained in the National Planning Policy Framework.

NOTES TO APPLICANT:
The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £28 where the related permission was for extending or altering a dwelling house or other development in the curtilage of a dwelling house. The fee must be paid when the request
is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

The Local Planning Authority considered the application as submitted to be acceptable. On this basis, there was no need to engage with the applicant in a positive and proactive manner to resolve any planning problems and permission was granted without negotiation.

This decision notice relates to the following documents:

Site Location and Block Plan 1:1250 and 1:500 received on 3rd June 2014
Design and Access Statement received on 3rd June 2014
Drawing Nos. 01(rev.v1), 02(rev.v1), and p.12(rev v.1) received on 3rd June 2014.
Amended Drawing Nos. p.10(rev.v.2) and p.11(rev v.2) received on 14th August 2014
14/00375/LBALT

35 Coldwell Street, Wirksworth
The property is a three storey, Grade II listed dwellinghouse which dates from c.1800 and forms part of a terrace group of dwellinghouses. It is constructed with red brick, albeit the frontage has been rendered, and has a slate roof. The property is within the Wirksworth Conservation Area.

**THE APPLICATION:**
Listed building consent is sought for a first floor extension to the rear of the dwellinghouse. This is proposed to be set above a previous extension which comprises the kitchen. It is proposed to measure 2.1m deep by 2.1m wide and the roof is proposed to tie in with, and be a continuation of, the slope of the roof to the dwellinghouse. The extension is proposed to be constructed with matching red brick and slate. The applicant has submitted details of the proposed window that would be inserted into the rear elevation. The extension would provide for a first floor bathroom and this would allow the current bathroom to be returned to a bedroom.

The applicant has advised that the purpose of putting the bathroom on the rear of the property (like all the other properties in the vicinity), is to remove the existing overflow pipes from the front elevation and to eliminate the necessity to insert extract outlets and possible flues in the future.

**RELEVANT HISTORY:**
14/00374/FUL First Floor Rear Extension – to be determined
1292/0964 Alterations to listed building - Granted

**CONSULTATIONS:**
Town Council – No objection

Local Highway Authority – No objection

**REPRESENTATIONS:**
Two letters of representation from neighbours. The comments can be summarised as follows:
- 33, 35 and 37 Coldwell Street date from around 1780, and were originally one house – “A Gentleman’s Residence” – before being divided up into three houses a long time ago
- planned extension is inappropriate for a Grade II Listed Building in a Conservation Area - will change the character of the property in a detrimental fashion
- will affect the integrity of the building as none of the two properties either side have an extension sticking out at that level
- extension will be very visible from neighbours’ patio and garden
- other matters of a planning nature relating to the impact of the development on neighbour’s amenity (refer to planning application 14/00374/FUL which is to be determined).

A letter of representation has been received from an interested party advising the following:
- important that the planned development is sympathetic to the listed building’s appearance
- support use of reclaimed bricks and slates from the rear elevation and replacement of modern windows with a more traditional design.

POLICIES:
1. National Planning Policy Framework

ISSUES:
The proposed extension, in its design and materials, is considered to preserve the character and appearance of the listed building. In terms of internal alterations, the applicant has amended the application drawings at the request of Officers. This is in order to detail the retention of most of what is currently the external wall which would become an internal wall within the bathroom and not to be fully removed as initially proposed. In this respect, the proposal is considered to preserve the character and appearance of the listed building.

OFFICER RECOMMENDATION:
Listed Building Consent be granted, subject to the following conditions:

1. Condition ST04a Time Limit on Listed Building

2. The works hereby consented shall be carried out in accordance with the original submitted plans and specification except as amended by the drawings received on 14th August 2014 and except as required by any other conditions to which this consent is subject.

3. Notwithstanding the details on the approved drawings and specifications, the facing and roofing materials, and the rainwater goods, shall be reclaimed materials to match the existing dwellinghouse in accordance with samples to be submitted to and approved in writing prior to the commencement of the development. The extension shall thereafter be constructed with the approved materials.

4. Notwithstanding the details on the approved drawings and specifications, before the development commences the following points of detail shall be submitted to and agreed in writing by the Local Panning Authority:
   - the finish to the edges of the brickwork forming the opening;
   - the lintel to the opening; and
   - the facing materials to the wall.

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

Reasons:

1. Reason ST04a
2. To define the consent for the avoidance of doubt.

3. To ensure the satisfactory appearance of the development to preserve the character and appearance of the Grade II listed building to comply with government guidance contained in the National Planning Policy Framework.

4. To safeguard the historic fabric and architectural evidence of the original dwellinghouse to preserve the character of the Grade II listed building to comply with government guidance contained in the National Planning Policy Framework.

NOTES TO APPLICANT:

During the consideration of this application, the Local Planning Authority have engaged in a positive and proactive dialogue with the applicant, which has resulted in revised proposals which overcame initial concerns with the application, relating to the retention of a wall, reflected in the amended plans.

This decision notice relates to the following documents:

Site Location and Block Plan 1:1250 and 1:500 received on 3rd June 2014
Design and Access Statement received on 3rd June 2014
Heritage Statement received on 3rd June 2014
Drawing Nos. 01(rev.v1), 02(rev.v1), and p.12(rev v.1) received on 3rd June 2014.
Amended Drawing Nos. p.10(rev.v.2) and p.11(rev v.2) received on 14th August 2014
THE SITE AND SURROUNDINGS:
The site is an agricultural field at the junction of Uppertown Lane with Bankside at the centre of Uppertown which lies within the Bonsall Conservation Area. The Peak District National Park extends into Uppertown on the southern side of Uppertown Lane immediately opposite the site.

Uppertown is an annexe to the main village on its north western side, being perched on high ground overlooking Bonsall Dale to the south. The settlement extends either side of Uppertown Lane, Bankside and Bell Lane on land which rises steadily from the north before falling away more steeply to the south.

Dwellings and farmsteads on the southern side in particular are set into the slope where they take advantage of shelter offered by rising ground behind. The junction of Uppertown Lane with Bankside is at the centre of this cluster of development. The site, being to the north, is on higher ground overlooking the junction. With existing development at Chestnut Farm to the west and at Greenwood and Rose Cottages to the north, the application site is the only area of open space at the heart of the settlement. Local features such as the well and post box are set into the substantial retaining wall which supports it on its southern and eastern sides.

THE APPLICATION:
Full planning permission is sought for the provision of three dwellinghouses and two flats on the site. Generally, the development is proposed to occupy the highest parts of the site being set back from the southern boundary where an open frontage comprising sloping ground behind the retaining wall will be maintained.

The dwellinghouses are proposed in a terrace of three set back from, and fronting, Uppertown Lane. Units 1 and 3 are proposed to be constructed with limestone and Unit 2 with render. The building detailed to be set back on the site is proposed to provide for two flats (Units 4 and 5) which is proposed to be constructed with limestone and render. The roofing material is proposed to be Staffordshire Blue plain tiles and the chimneys would be constructed with brick slip facings. Windows and doors are proposed to be painted timber.

Access to the site is proposed from Uppertown Lane to the east of the site. This would lead to a parking yard which would cater for eight cars. A further two parking spaces are proposed to the rear of Unit 1 and two visitor spaces to the north side of the access road into the site. The access and parking areas are proposed to be tarmac with block paving proposed for the turning area and for delineating the parking bays.

With respect to the retaining wall, this is proposed to be removed from the eastern side with a boundary wall provided set back to allow a requisite visibility splay for the access. The south part of the retaining wall, with the well and the post box, would remain in situ. At the request of the Development Control Archaeologist, the applicant submitted a Heritage Statement during the consideration of the application in order to assess archaeological issues relating to the site and the wider area.

RELEVANT HISTORY:
None
CONSULTATIONS:
Parish Council – Comment:
- whilst do not object, do hold considerable reservations about the design of the site
- proposed height of the development - plans indicate that the new development will be some 1.8 metres higher than surrounding skylines - this will be dominant in the skyline both to immediate neighbours and to the area and should be minimised
- traffic movements in the area need to be fully considered and would like reassurance that this will happen as there is a fear that traffic moving in and out of the development may create danger in an already congested, narrow road
- materials used to build the development must blend effectively with the surrounding areas - concerns expressed that there was no clear detail of this on the plans and that it was possible for example to get the impression from the plans that the chimney pots would be made of plastic
- Parish Council have listened carefully to the concerns of those residents who are concerned the development would look out of place and would urge DDDC to ensure that the highest quality materials which will blend in to the surrounding area should be used.

Local Highway Authority – No objection subject to Conditions.

Peak District National Park Authority - No objection
- support the provision of appropriately designed, affordable, local needs housing in Uppertown

Conservation Advisory Forum – Object:
- had regard to the Conservation Area appraisal
- if the principle of developing this site was not considered to be an incursion into this green/rural agricultural land, then they did not consider the scheme as submitted to demonstrate any sense of appropriate ‘space or place’ within the context of the surrounding Conservation Area
- consider the proposed layout to be inappropriate - not ‘organic’ and needed to relate more appropriately to its rural context
- proposed development did not integrate with the identified ‘grain’ of the Conservation Area
- the design of development proposed was an inappropriate ‘pastiche’ and a more contemporary scheme should be explored
- considered overall that any proposed development on this site should reflect and relate to the context of the Bonsall Conservation Area.

Development Control Archaeologist – Comment:
- archaeological desk based assessment meets requirements of para 128 of the NPPF
- no need for further investigation of below ground archaeology
- probable medieval earthwork bank to northern edge of site of local significance and to that of the Conservation Area
- recommend conservation of this feature

District Council’s Head of Housing – Comment:
- Community Housing Team fully in support of this application
- set out background to identifying the site for affordable housing
- considered a rare opportunity to meet local affordable housing need in this part of Derbyshire Dales
- in relation to Bonsall and its adjoining parishes, only Middleton-by-Wirksworth has had a recent affordable housing scheme
- proposed scheme of five affordable homes for local people in Bonsall is a top priority
- the District Council having allocated £100,000 capital funding for this scheme, with the Homes and Communities Agency allocating £75,000 from its Affordable Homes Programme funding.

REPRESENTATIONS:
Letters of representation from 49 neighbours, local residents and visitors to the area objecting to the application. The comments can be summarised as follows:

Policy
- greenfield site
- immoral to destroy a green space in a conservation village when other brownfield sites are available
- frustrating that affordable housing seems to get preferential treatment when smaller schemes are rejected
- already 10 housing association properties in Bonsall and significant numbers of affordable private rents
- may be a strong desire to live in the village but not necessarily an urgent need
- believe target for affordable housing has been met in Derbyshire
- understand available housing in Derby and Chesterfield so not a critical issue to be addressed
- Village Design Statement not consulted
- may be alternative sites - old playground next to the school, house with acre of land above Barley Mow, area of wasteland lower down on the Dale with derelict building, greenfield site on High Street
- Bonsall Field Barn Project would be interested in developing Council owned land next to the council houses which could support two buildings
- what has been done to explore alternative sites
- insufficient evidence of need affordable housing
- limited amenities in the village

Need for Affordable Housing
- only five families with a local connection desire a home in Bonsall
- if housing being made available to members of the community, how many would associate themselves with site given the level of concern and protest

Impact on the Character and Appearance of Area and Heritage Assets
- site is an important element of the Conservation Area
- visual impact - will not enhance the Conservation Area
- field is worth keeping for future generations to enjoy
- openness of the raised meadow is an important part of the traditional look and feel of Uppertown
- site is central feature of Uppertown
- impact on setting of 17th century Chestnut Farm
- on Peak Park boundary and Limestone Way
- would be clearly visible from the Peak District
- high stone wall and ancient well create a key part of the ambience of Uppertown
- suburban style cul-de-sac/close’ type development completely out of keeping with the area
- design is mediocre
- rebuilding wall with mortar not in keeping with existing drystone wall
- realignment of wall on Uppertown Lane will alter ancient character
- appears to widen Uppertown Lane to enable access which will change character
- would ruin appearance of Chestnut Farm
- houses have small yard/garden sometimes with a low wall
- should preserve area to attract tourism
- remains of a ditch and furrow on the site
- impact on archaeology

Materials
- use of gritstone inappropriate in predominantly limestone area
- materials chosen as cheap to buy and quick to put up – cost cutting
- some houses in the vicinity faced in gritstone but this is not the norm
- building is going to be reconstituted gritstone
- chimneys are made of plastic
- large area of tarmac not traditional and would be alien
- 1.8m high timber fencing is incongruous – low level drystone walls would be more appropriate

Scale and Massing
- site some 2.5m higher than the road
- scale would fundamentally alter the nature of the village
- site inappropriate as elevated and prominent and development would be obtrusive
- will tower above neighbouring ancient buildings
- impact on skyline
- roof heights decrease as you are coming down Uppertown Lane
- view of dominant gable wall when coming up Bankside
- will appear to sit on top of the limestone wall as will the car parking area
- Bonsall Village Design Statement advises that new buildings should complement height of existing houses and not overpower them
- how is sloping bank to be retained
- if houses were at roadside level it would blend in
- can the site be excavated so buildings sit down in the landscape
- fencing will add to dominance

Landscape and Ecology
- field unfertilised and so is abundant with wild flowers unlike many in the area
- wonderful flower meadow with many species of flora and fauna
- RSPB fighting to maintain as many natural meadows as possible
- plot attracts wildlife to the area
- how will communal areas be maintained
- impact on mature birch tree in neighbouring garden

Highway Issues
- traffic and parking issues on congested, narrow road junction
- will add to congestion
- access insufficient for large (delivery) vehicles
- inadequate visibility due to narrowness of Uppertown Lane and parked cars
- existing on-street parking lost with access to site
- gradient of access – what provision is made for drainage and ice on the access
- on-site parking appears cramped and congested with insufficient manoeuvring space
- extra vehicles will lead to air pollution and impact on condition of road
- vehicles will park on the bank
- no paths in village so have to walk on the road
- could lose bus service if bus unable to turn
- highways will not be inspecting site during peak times or when children are around

Neighbours’ Amenity
- loss of privacy
- loss of light
- loss of view
- noise pollution and disruption during construction
- bin storage area located near to neighbour’s main living room – concerns that bins will be left there

Other Issues
- suitability of a site should not be based on a landowner being willing to sell
- land cost is not sufficient justification to build on a conservation area
- would like to live in Bonsall - cannot understand why people cannot live in Matlock, Wirksworth, Darley Dale, etc while saving to live in their preferred location
- impact on local community – one family has put their house on the market and two others considering it
- loss of house value
- agree affordable housing is needed but plot inappropriate
- could benefit from affordable housing in future but would not want to spoil beauty of the area
- inadequate consultation with residents in Uppertown
- could lead to applications for similar developments around the area
- matters of landownership relating to the sub-station
- DCC five year financial plan to cut subsidies to rural buses

Letters of representation from a local resident, a Wirksworth resident and an interested party supporting the application. The comments can be summarised as follows:
- condition to ensure properties are not sold and remain as rented accommodation
- many of the objections are subjective and can be discussed with the applicant and solutions found
- only real objective points are that the Country, the District and Bonsall needs affordable housing
- only a small development that will only benefit the village by providing much needed affordable housing
- although a greenfield site, is within the built up area
- understand other sites have been found to be unsuitable
- important that it integrates with its surroundings
- Village Design Statement supports affordable Housing (reference Pages 4, 14, 20, 26, 48 and 51)
- if properties were up for sale would give chance for Wirksworth resident to move back to Bonsall
- all houses in Bonsall are either being bought for holiday homes or people from very wealthy backgrounds pushes local children/young adults out of the village.

POLICIES:
1. Adopted Local Plan (2005)
1. Introduction – Background
The proposed scheme has had substantial input from the District Council’s Rural Housing Enabler (RHE) over a 7 year period. The RHE carried out an initial housing need survey in 2007, working with Bonsall Parish Council. The application site came forward early on in the process, but work was still undertaken to appraise all sites in or on the edge of Bonsall for their potential to deliver affordable housing sites.

A ‘walk round’ the village was carried out with representatives of Bonsall Parish Council, the Rural Housing Enabler, Nottingham Community Housing Association (acting as development agent for Dales Housing) and a Senior Planning Officer of the District Council. From this site appraisal work, two sites were identified as preferable to the application site, if they were available. The landowners were approached and both sites, at the time of the appraisal and currently, are operational businesses.

The housing need survey was then carried out again in September 2013. The online survey was then followed up by the RHE interviewing people face to face to check their housing need,
local connection, affordability and their desire to remain in the village. This survey identified seven households with a strong local connection in need of affordable housing in Bonsall. A separate 'Statement on Bonsall’s Affordable Housing Need,' outlining the results of the survey, also forms part of this application.

In relation to Bonsall and its adjoining parishes, only Middleton-by-Wirksworth has had a recent affordable housing scheme. This is despite extensive site appraisal work in Matlock Bath, Cromford and Winster which has not brought forward a site to meet the identified affordable housing need in these parishes. As such, this proposed scheme of five affordable homes, for local people in Bonsall, is a top priority for the Community Housing Team.

The requirement for affordable housing in the village is also reflected in the Bonsall Village Design Statement.

2. Policy

In terms of current planning policy, the Adopted Derbyshire Dales Local Plan (2005) is given significant weight in cases where the policies are compliant with the National Planning Policy Framework. Where the policies of the Adopted Local Plan are not compliant with advice within the National Planning Policy Framework, then the National Planning Policy Framework takes precedence.

In this case, Policies SF2, SF5, H4, H9, H13, NBE8 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) are considered to be of particular relevance to the consideration of this application and, because they are consistent with the National Planning Policy Framework, they continue to carry substantial weight as the primary consideration in decision making.

The site is in an area defined as open countryside for planning purposes. In this respect, Policy SF2 seeks to limit the extent of development in the open countryside. However, notwithstanding this, Policy H4 does allow for residential development in the open countryside outside of settlement Framework boundaries where this consists of affordable housing to meet an identified local need. Policy H13 supports this and advises that the District Council will grant planning permission for affordable housing on sites that would not normally be released for housing development provided that it would meet and be of a size and type to meet a genuine local need and the benefits of such would remain in perpetuity. Such sites would also have to take into account environmental considerations and be located within or adjacent to built-up areas of settlements.

Policy SF5, relating to the design and appearance of development, advises, in part, that planning permission will only be granted where the development preserves or enhances the quality and local distinctiveness of its surroundings and it reinforces the sense of place engendered by the presence of local building styles and materials. This is reflected in Policy H9 which addresses the design and appearance of dwellings.

Policy NBE8 relates to landscape character and states that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape. The site is within the Bonsall Conservation Area and Policy NBE21 states that development proposals within a Conservation Area will only be granted permission provided they preserve or enhance the character and appearance of the area. The Bonsall Conservation Area appraisal is therefore a material consideration in this respect.

The Submission Draft Derbyshire Dales Local Plan (2014) is also a relevant consideration under the terms of Paragraph 216 of the National Planning Policy Framework, which states that
decision takers may give weight to relevant policies in emerging plans according to the stage of preparation, with the more advanced the preparation the greater the weight that may be given. However, the Submission Draft Derbyshire Dales Local Plan was subject to Examination in Public on 22nd and 23rd July 2014. Following the examination, the Planning Inspector advised the District Council that the Plan, as submitted in its current form, would not be found sound. Three choices were identified as being available to the District Council on how to proceed with the preparation of the Local Plan:

- the examination could continue but the Planning Inspector advised of the dangers of doing so;
- the Plan could be withdrawn and re-submitted once the issues identified had been addressed; or
- the examination be suspended to allow the District Council to undertake further work and consultation for a period of 6 months.

At the current time the District Council has decided that, based upon the initial conclusions of the Planning Inspector, it would not be appropriate to proceed with the examination as originally scheduled. Consideration of the most appropriate option for taking the Local Plan forward is currently being undertaken. Accordingly, at this time the Submission Draft Derbyshire Dales Local Plan may only be afforded limited weight in decision making.

In addition to the above, the Bonsall Village Design Statement is a material consideration. This states that it will be taken into account when planning applications are assessed subject to the compatibility with policies in the Local Planning Authority Development Plans. It states that 'this means that future developments will be influenced by the views of the local people.'

In this respect, there are clear views on not wishing to extend the boundary of the village envelope and on protecting the skyline. The Statement advises that new housing should contribute to the individual character of the part of the village. The preferred development is infilling with appropriate houses in the built areas of the village, which conform with the distinctiveness of the particular part of the village in terms of style, materials, scale, proportion and the characteristic pattern of development. It is advised that construction in other areas, such as farmland on the edge of the settlement, should take account of the adverse impact on views, interference with public rights of way, significant traffic increase, impact on flora or fauna and matching neighbouring properties.

The Village Design Statement also states that low cost housing should be given a priority and will be actively encouraged and supported. The Statement also seeks to encourage housing for young families to keep the village community alive.

3. Impact on the Character and Appearance of the Bonsall Conservation Area

In terms of landscape character, the site is an open space in an area where development is quite constricted. It represents a “dovetailing” of the countryside into the built environment where agriculture and livestock are at the centre of the community. In this respect, it provides a setting for historic and important local features such as the Chestnut Farm, the well and the post box.

The Bonsall Conservation Area Statement identifies the site as an extending finger of green space which forms an interface between the natural and built environment and helps to define the rural character of this part of the Conservation Area. It also states that the land lies at the core of Upptown and contributes positively to the rural character of this part of the Conservation Area. As such, development of the site would diminish the importance of the land.
in these respects and have an adverse impact on local landscape character and an impact on the character and appearance of the Conservation Area.

However, such an impact needs to be considered in the round. Whilst the site is a green incursion into Uppertown, the area itself is characterised largely by development aligning the highways of Uppertown Lane and Moor Lane with open countryside beyond. In this respect, development of the site in the manner proposed would be reflective of the existing built character and appearance of the area, as with many parts of Bonsall with development around road junctions. This is consistent with the Bonsall Village Design Statement advocating infilling within the built areas of the village.

4. Design and Appearance
The Bonsall Village Design Statement advises that new housing should contribute to the individual character of the part of the village. The preferred development is for dwellinghouses which conform with the distinctiveness of the particular part of the village in terms of style, materials, scale, proportion and the characteristic pattern of development. In this respect, a degree of balance is advocated in the design of the elevations of dwellings; this is clearly reflected with the development proposal.

However, the area is characterised by different dwelling types, from terraced cottages to large, relatively modern dwellinghouses. The proposed dwellinghouses would appear modern but are considered to draw on the traditional design elements such as the stone and render facings and Staffordshire blue tiles to be found in the more historic cottages in the area.

Concern has been raised with regard to the principal stone facings being gritstone. Whilst gritstone facings are evident within Uppertown, the applicant has nevertheless taken on board the comments made in the representations and has agreed to the stone facings being rubble limestone with the quoins, lintels and cills being gritstone. This is reflective of the traditional cottages along the western side of Uppertown Lane.

There are concerns that the chimneys will be plastic. However, such chimneys, with brick facings, have been successfully used on the recent Hallcroft development in Middleton-by-Wirksworth and such a detail would not detract from the character and appearance of the development.

5. Scale and Massing
The site is elevated above Uppertown Lane and particularly so at Moor Lane where this is some 2.5m in height at the road junction. All along Moor Lane the site is over 2m above the road level for much of its length and this is defined by the stone retaining wall.

The principal concern with regards to the scale of the development is the perceived mass of Plot 1 as it would be set on the elevated corner of Uppertown Lane and Moor Lane and the dwelling would be prominent when viewed from the south in particular. It is considered that the retaining wall will provide a degree of visual break in how the south elevation would be perceived. However, whilst the mass of the building on the elevated site would be apparent, it is not unusual to find buildings set on elevated sites around Bonsall. In this respect, it is not considered that the elevated nature of the development could be a justifiable reason to refuse planning permission.

A dropping of the levels has been discussed with the applicant given the concerns raised in the representations. However, this would be costly and impact on the deliverability of the
development, particularly given that this is for an affordable housing development and with the applicant accepting added costs in the use of limestone as a facing material.

Concern has been raised with respect to the fencing, particularly that to the south side of the garden to Unit 1. The applicant has agreed that this would be a 1.2m high stone wall as a reflection of the other walls proposed to the rear of the dwellinghouses. In this respect, it is considered that the wall would reflect the retaining wall in the foreground and reduce the sense of scale of the development to which representations have raised concern.

6. Amenity Issues
The development would face dwellinghouses on the opposite side of Uppertown Lane. In this respect, analysis does need to be made on the potential loss of amenity. The buildings would be some 12m away from New House but would have an angle of view at some 45°. With regard to Windward, there would be a distance of some 15.5m to Unit 3, which would have a secondary lounge window facing it, and some 17m to the facing windows of Unit 2. Given the relative distances and angles of view, it is not considered that there would be a significant loss of privacy to justify refusal of the application.

Greenwood Cottage is the nearest dwellinghouse to the north of the site. This would be some 9.5m away from Unit 3. Whilst this would overlook the rear garden to the Greenwood Cottage this would be from the bedroom windows and is not considered to lead to a significant loss of privacy. It is not considered, given the relative distances and orientation of the buildings, that the development will have a significant impact on the amenity of residents of dwellinghouses along Moor Lane.

Given the relative distances between the properties, it is considered that the development would not lead to such a significant loss of privacy, light or outlook to justify a substantive reason for refusal and there is also no right to the protection of a view within planning legislation.

7. Highway Matters
The Local Highway Authority has advised that it has had several informal enquiries regarding the development of the site and have accepted the principle of the development subject to the proposed access achieving an acceptable level of emerging visibility onto Uppertown Lane. It has advised that, although it would prefer to see a 2.4m parallel sightline be constructed to improve visibility from the existing road junction to the south, there are no grounds for a highway safety objection on this basis alone. The proposed parking layout is acceptable and the bin storage area adjacent to the access point can allow bins to be left without obstruction to the highway.

Concerns have been raised by local residents with regard to the level of parking provision. However, the two spaces proposed per dwelling unit are more than adequate to serve such a development and meet the maximum standards for such provision. The Local Highway Authority has raised no objection to parking provision.

There is concern that the development would take away existing car parking space with the provision of the access. Whilst not a requirement of the development to be justified, the applicant has recognised concerns over parking and provided two visitor car parking spaces to be available to local residents.

Given the above, the Local Highway Authority advises of no objection to the proposed development subject to conditions with respect to the visibility splays, parking and manoeuvring.
space provision, the access gradient, provision of the bin storage and dwell area and the provision of on-site storage, parking, manoeuvring space, etc. during the construction period.

8. Archaeology
During the consideration of the application, the Development Control Archaeologist requested an archaeological appraisal be undertaken for the site. In this respect, the applicants submitted a heritage statement. The Development Control Archaeologist has advised that the archaeological desk based assessment now meets requirements of paragraph 128 of the NPPF. It has been advised that there is no need for further investigation of below ground archaeology.

However, it was noted that a probable medieval earthwork bank existed to northern edge of site which the Development Control Archaeologist has advised is of local significance and is significant to the Conservation Area and thus recommended the conservation of this feature. In this respect, the applicants have realigned the proposed boundary wall to the north of the site to exclude this feature from the developable area and it is considered that the proposals are now satisfactory in terms of addressing archaeological issues.

9. Ecology
Whilst the site is an open field, it is grazed and considered to be of no high ecological significance. In terms of wildlife activity, it is considered that the development of this parcel of land would not be of detriment to protected species. In this respect, there are considered to be no significant ecological issues.

The neighbour at Greenwood Cottage raises concern regarding the impact of the development on the mature birch tree in the rear of their garden. Whilst the development proposes hardstanding over the rooting system, the parking spaces could be amended to setts or limestone chippings so that much of it is permeable, allowing water to the roots. A condition can be attached to any planning permission to ensure the tree is protected during the construction works.

10. Impact on Community
There have been a number of representations referring to the impact that the development would have on the local community with some people possibly intending to leave Uppertown as a result of the development. Such matters would be unfortunate but could often be levied against any development proposals and should not be regarded as a substantive reason to justify refusal of planning permission. It would be hoped that the provision of dwellinghouses to provide for the needs of local people would add to the community.

11. Conclusion
There are clear concerns that the development will impact on the character and appearance of the Conservation Area and the landscape and have a detrimental impact on the amenity of local residents. It is appreciated that the site is a greenfield site permeating the settlement of Uppertown and that it would normally be desirable to protect such land from development. In this respect, the site has been excluded from the proposed Settlement Framework boundary identified in the emerging Local Plan. The site is also within the Bonsall Conservation Area and there is a clear presumption in preserving or enhancing such areas.

However, the development is required to meet an identified local need for affordable housing. The District and Parish Councils have undertaken a thorough assessment of available sites within the village and the application site is considered the only site within Bonsall/Uppertown...
currently reasonably available for development. In this respect, significant weight has to be
given to the potential for the site to deliver much needed affordable housing to meet the
identified local need when being considered against other policies of the Local Plan and
National Planning Policy Framework.

The development has been amended by the applicant having regard to concerns raised in
representations with respect to materials. Whilst a reduction of levels has been considered, this
is considered impractical whilst seeking to deliver the development within budget and,
evertheless, it is considered that the resulting development would not be out of character with
forms of residential development in the area. Whilst there will be some impact on the character
and appearance of the Conservation Area, it has to be appreciated that Bonsall/Uppertown is
largely contained within a Conservation Area and any development of such extent, within or
around the village, will have some impact.

It is appreciated that the development will have some impact on current character and
appearance of the Conservation Area, with the loss of the field permeating the built form.
However, the development proposed is considered to respect the character and appearance of
traditional dwellinghouses in the area and in this manner would be reflective of the prevailing
character and appearance of the Conservation Area. This also has to be balanced with the
identified need for affordable housing in the Bonsall/Uppertown and that the provision of
affordable housing to meet identified local need is one of the principal aims of the District
Council.

Local residents have raised concern with their perceived loss of amenity as a result of the
development. It is appreciated by Officers that this will occur. However, having assessed the
interrelationship of the proposed dwellings with the existing, it is the view of Officers that the
impacts are not so significant that would otherwise warrant a recommendation of refusal on
such grounds.

Concerns have also been raised with regard to the impacts on highway safety and parking and
manoeuvring space in the locality. However, this has been assessed by the Local Highway
Authority who has raised no objection to the proposal subject to conditions and as such there
can be no substantive grounds to refuse planning permission on this basis.

Given the above, it is recommended that, on balance, the need to provide the affordable
housing, with what Officers consider to be an appropriately designed development, outweighs
the limited harm to the landscape and the character and appearance of the Conservation Area
referred to in the representations. As such, 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. The development hereby approved shall be carried out in accordance with the original
   plans and specification, except as amended by the drawings and information received on
   23rd June and 31st July 2014, and except insofar as may otherwise be required by other
   conditions to which this permission is subject.

3. **Condition DM2** All Materials to be Approved: Conservation Area

4. **Condition DM12** Sample Panel to be Inspected on Site
5. Condition DM24 Design Details (Eaves and Verges)

6. Notwithstanding the details on the approved drawings, the meter boxes shall be relocated to the rear of the dwellings, or in positions otherwise agreed, in accordance with details to be submitted and approved in writing by the Local Planning Authority. The meter boxes shall thereafter be provided in accordance with the approved details.

7. Condition DM25 Window/Door Frames: Inset Required (80mm)

8. Condition DM26 Window/Door Frames: Details Required

9. Notwithstanding the details on the approved drawings, before the development commences, details of the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. These shall be erected in accordance with a phasing plan for the development to be first agreed in writing by the Local Planning Authority and shall thereafter be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

10. Notwithstanding the details on the approved drawings, no development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
   a) all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
   b) measures for the protection of retained vegetation during the course of development;
   c) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection; and
   c) hard surfacing materials

11. Condition LA13 Landscape Works: Implementation

12. Condition LA15 Management Plan: Details Required

13. Before the development commences, details of the proposed sheds shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in accordance with the approved details.

14. Prior to the commencement of development, details of the management of the dwellinghouses, which shall be undertaken in perpetuity by a Registered Social Landlord, shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall thereafter be occupied in strict accordance with the scheme.

15. Before any other operations are commenced, 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 for site operatives and visitors’ vehicles, laid out and constructed in accordance with designs first submitted to and approved in writing by the Local Planning Authority, and the facilities are to be maintained throughout the
construction period in accordance with the approved designs free from any impediment to its designated use.

16. Before any other operations are commenced, a new vehicular access shall be created to Uppertown Lane in accordance with the application drawings, laid out and constructed with a minimum width of 4.25m for the initial 5m and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the sightlines shall be maintained in perpetuity clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway edge.

17. The proposed access drive to Uppertown Lane shall be no steeper than 1 in 15 for the first 10m from the nearside highway boundary and measures shall be implemented to prevent the flow of surface water onto the adjacent highway. Once provided, any such facilities shall be maintained in perpetuity free from any impediment to its designated use.

18. Prior to the occupation of the first dwellinghouse, the bin dwell area for use on refuse collection days shall be provided as per the application drawings and retained thereafter free from its designated use.

19. The premises, the subject of this permission, shall not be occupied until space has been provided within the application site in accordance with the approved drawings for the parking and manoeuvring of residents/visitors vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.


Reasons
1. Reason ST02a

2. To define the permission

3-8. To ensure the satisfactory appearance of the development to comply with Policies SF4, SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

9-12. To ensure the satisfactory appearance of the development to comply with Policies SF4, SF5, H9, NBE21 and NBE26 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

13. To ensure the satisfactory appearance of the development to comply with Policies SF4, SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

14. To meet the need for affordable housing in the locality and to comply with Policy H13 of the Adopted Draft Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

15. In the interests of highway safety.
16. In the interests of highway safety to comply with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

17. In the interests of highway safety.

18. In the interests of highway safety.

19. To ensure the provision of adequate parking facilities in the interests of highway safety to comply with Policy TR8 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

20. To safeguard the character and appearance of the development and to ensure satisfactory levels of amenity to comply with Policies SF4, SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

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 12 weeks prior notification should be given to the Economy, Transport and Environment Department of Derbyshire County Council before any works commence on the vehicular access within highway limits. Please contact Joanne Mason on 01629 538612 for further information.

2. The Local Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose materials (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 Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soak-away within the site.

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

5. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from David Bailey, Traffic Management - telephone 01629 538686.

6. The Local Planning Authority has, prior to the submission of the application and during its consideration, engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame concerns relating to the design and materials of the development.
14/00437/FUL

Land between Bakewell Road and Arc Leisure

Derbyshire Dales DC
Date: 20/08/2014
100019785
ERECTION OF THREE STOREY BUILDING FOR HOTEL AND ANCILLARY RESTAURANT/BAR TOGETHER WITH CAR PARKING AND ANCILLARY WORKS AT LAND BETWEEN BAKEWELL ROAD AND ARC LEISURE CENTRE, MATLOCK FOR PREMIER INN HOTELS LTD.

Town Council: Matlock  
Application type: Full  
Date of receipt: 08.07.14  
Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:
The application site is part of an area known locally as ‘The Dimple’ and is located approximately 1.5 miles north-west of Matlock town centre. The site lies immediately to the north of the A6 between Matlock and Darley.

The site immediately to the north of the application site has been developed in recent years with the ‘ARC’ leisure centre, with the remainder of ‘The Dimple’ retaining playing fields, recreation areas and areas of ecological interest. It was utilised as a municipal landfill site between 1955 and the early 1970s.

The application site previously contained a community centre with car parking area, albeit this was demolished during the development of the leisure centre. It site lies within the Settlement Framework boundary of Matlock as defined in the Adopted Derbyshire Dales Local Plan (2005). The site is also within an area at risk of flooding.

THE APPLICATION:
Full planning permission is sought for a three storey hotel building with a flat roof. It is proposed to be L-shaped in form. This is proposed to measure some 39m wide by 15m deep with a projection to the rear measuring 14.5m wide by 15.5m deep. The majority of the building is proposed to measure some 10.3m high. The zinc clad element of the building fronting the A6, as a result of negotiations with Officers, has been increased in height by 0.7m. This is in order to provide a parapet and thus this element of the building would measure 11m high.

In terms of materials, the building is proposed to be constructed with a gritstone plinth. It is then proposed on the first and second floors to have a standing seam zinc cladding system for the element of the building closest to the A6 and white render to the remainder of the building. In terms of accommodation, the building would provide 58 bedrooms. There would be a restaurant/bar for 52 covers.

The main entrance is proposed on the elevation fronting Morledge. The restaurant/bar is proposed to be set into the corner of the building fronting the A6 and Morledge with a glazed façade to provide an active corner frontage. The restaurant/bar is primarily intended as a hotel facility.

There is customer car parking proposed for 51 vehicles and servicing is proposed to the rear of the building with an enclosed service area. The site is to have retaining walls set to the front and rear of the site to make the site level. The building is also designed to be cut into the sloping site. Landscaping is proposed round the site with a notable area of tree planting to the south of the site where it abuts the public footpath and some planting on the boundary of the site with the leisure centre. Existing landscaping is proposed to be retained, tidied up and managed around the entrance to the site to provide a softening of the site in views from Morledge.
In terms of crime prevention, the applicant has advised that the building is staffed 24 hours of the day and has a controlled entry at night. There are a number of nightly spot checks and external lighting of the car parking area. The site would also have CCTV installed.

The building would have level access throughout and a lift to all floors and would be compliant with Part M of the Building Regulations (Access for the Disabled). The applicant has also detailed the use of renewable energies through the use of heat pumps and controls to minimise energy consumption. Measures are also proposed to limit the amount of electricity used for lighting the building.

The applicant advises that, prior to the submission of the application, they engaged in pre-application discussion with a number of stakeholders in the local community, members of the public and the local press. There was also a public exhibition with 76 attendees. Although only 23 feedback forms were completed, the general response was substantially in favour of the principle of redeveloping the site, that a hotel was supported and that it was considered that this would strengthen Matlock’s economy.

The applicant has also submitted the following documents in support of the application:

- Noise Impact Assessment
- Ecological Appraisal
- Transport Statement
- Travel Plan
- Stage 1 Flood Risk Assessment
- Drainage Plan
- External Lighting Layout Plan
- Amended Drawing of the Elevations

These documents are not summarised here but have been circulated to consultees for consideration which feed into the ‘Issues’ section of this report.

RELEVANT HISTORY:

10/00526/VCOND Section 73 Application - Provision of wet and dry leisure centre facility including associated car parking, access road, landscaping, site remediation and ecological management works without compliance with Condition 27 of planning permission 09/00302/FUL - Granted.

09/00302/FUL Provision of wet and dry leisure centre facility including associated car parking, access road, and landscaping, site remediation and ecological management works and re-profiling to existing football pitches - Granted.

08/00344/TEMP Siting of temporary community centre building for a period of 5 years - Granted.

06/00558/OUR Provision of wet and dry leisure centre facility including associated car parking, landscaping and access road (outline) (renewal of 03/03/0209) - Granted.

06/00557/OUT Erection of public house and associated car parking (outline) - Granted.

06/00082/FUL Engineering operations comprising site drainage works - Granted.

03/03/0210 Formation of access road to proposed leisure centre - Granted.
03/03/2009 Provision of wet and dry leisure centre facility including associated car parking, landscaping and access road (outline) - Granted.

CONSULTATIONS:
Matlock Town Council – No objection - Comment:
- steps should be undertaken to minimise the impact of the building in the landscape, especially from the opposite side of the valley
- felt that a mushroom coloured render and sedum roof would go some way to lessen the visual intrusion
- suggest footpath link between the car park to existing footpath (No. 18) to allow access for pedestrians to the bus stop and Matlock town centre

Darley Dale Town Council – No objection

Local Highway Authority – No objection subject to Conditions

Environment Agency – Comment:
- application site is within Flood Zone 2
- refer to Standing Advice.

Director of Community Services (Environmental Health) – Comment:
- high risk of contamination is identified - conditions required with respect to site contamination
- recommendation of restricting deliveries to 08.00 to 20.00 Monday – Saturday with and 10.00 to 16.00 on Sundays and Bank Holidays if necessary
- noise assessment required for the air conditioning system if altered prior to installation
- recommend extract ventilation to the kitchen is designed to ensure odours do not cause problem to nearest properties
- would appreciate confirmation that the extraction system would not cause a noise problem to the nearest dwellings

Crime Prevention Design Advisor – Comment:
- no information of where CCTV would be sited – suggest full details be submitted
- suggest condition on monitored CCTV to cover car park

Derbyshire County Council Planning Control – Comment:
- would not adversely affect the minerals safeguarding interest

REPRESENTATIONS:
Matlock Civic Association – Comment:
- concerned at flat roofed, rectangular block appearance
- suggest curved roof to reflect the arc or partially pitched roof or at least should be a sedum or similar green roof
- white wall treatment considered stark – perhaps a softer colour could be used
- cladding should be of a matt finish to avoid over-reflection
- concerned about orange panels associated with many windows – more subtle colour would be appropriate to setting of mainly residential area
- question if proposed landscaping would be robust enough to soften the effect of the building
- how is existing overgrown landscaping to be managed and preferably augmented with trees
- to promote walking into town, a pedestrian access should be provided onto Bakewell Road in vicinity of bus stop

A total of six letters of representation from neighbours. The comments can be summarised as follows:
- poor design – looks like portacabin
- Council in danger of selling Matlock’s soul to mediocre designs
- applaud Council for ensuring a high standard of design – shouldn’t be less stringent with ‘big names’
- proposed cladding of upper floors out of keeping with surroundings
- building would look better if first and second storeys were rendered and windows vertically in line
- other contemporary buildings in the town are less apparent and reflect their surroundings better
- flat roofed building not in keeping – refer to Policy EDT8
- preference would be for a curved roof
- traffic has increased considerably due to developments at Morledge and the leisure centre which will be exacerbated with development at garden centre and therapy centre sites
- 10 access points onto A6 between Whitworth Hospital and Gas Cottages
- feel there should be a reduction in the speed limit given increased traffic
- have been several accidents including one fatality

POLICIES:
1. Adopted Local Plan (2005)
   SF1: Development Within Settlement Frameworks Boundaries
   SF3: Development Conspicuous From The Peak National Park
   SF5: Design And Appearance Of Development
   SF8: Catering For The Needs Of People With Disabilities In Development And Redevelopment
   EDT8: Design And Appearance Of New Industrial And Business Premises
   EDT18: Tourist Accommodation Within The Settlement Frameworks Of Market Towns And Other Settlements
   NBE5: Development Affecting Species Protected by Law Or Are Nationally Rare
   NBE8: Landscape Character
   NBE9: Protecting The Important Open Spaces Alongside The A6 Through Darley Dale
   NBE12: Foul Sewage
   NBE26: Landscape Design In Association With New Development
   NBE27: Crime Prevention
   TR1: Access Requirements And The Impact Of New Development
   TR2: Travel Plans
   TR8: Parking Requirements For New Development
   L1: New Leisure Centre, Matlock

2. Submission Draft Local Plan (2014)
   Strategic Policy 1- Sustainable Development Principles
   Strategic Policy 2 – Settlement Hierarchy
   Strategic Policy 11 - Accessibility
Development Management Policy 1 – Development within Settlement Framework boundaries
Development Management Policy 5 – Development Conspicuous from the Peak District National Park
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 17 – Affordable Housing
Development Management Policy 22 – Access and Parking

3. National Planning Policy Framework

ISSUES:
Introduction - Policy
The site lies within the defined Settlement Framework Boundary of Matlock. Policy SF1 states that planning permission will be granted for development if the proposal will make full and effective use of brownfield land in preference to greenfield sites, preserves or enhances the character and appearance of the settlement, is well related to surrounding properties and land uses, is well related to means of access and does not result in the loss of local services and facilities. This is reflected in Policies EDT8, which relates to the design and appearance of business developments, and EDT18 which relates to tourist accommodation within settlements.

The proposals would make full and effective use of previously developed land. The location of the site is on the urban fringe of Matlock, with the potential to be easily accessible to visitors by the railway or public transport and thereby reducing the need for visitors to travel to the site by private car.

The Dimple was specifically allocated for development as a leisure centre under the provisions of Policy L1 of the Adopted Derbyshire Dales Local Plan (2005). The leisure centre has now been developed and the requirements of Policy L1 met in this respect. The application site was an area of land that was part of the land allocation but has remained undeveloped. In addition, the application site is also designated with Policy NBE9 as an area of protected open space along the A6 corridor. However, it has been the District Council’s wish for the application site to be developed as part of support funding the leisure centre development and planning permission was granted in 2006 for the erection of a public house and associated car parking (ref: 06/00557/OUT) in this respect.

Notwithstanding the above, Paragraph 23 of the National Planning Policy Framework advises of the need to promote and allocate such development within town centres. In this respect, although the site is within the Settlement Framework boundary of Matlock, this is nevertheless peripheral to the town centre and therefore consideration must be given to the appropriateness of developing the site for a hotel.

There are limited sites within the town centre which could accommodate such a scale of development. The only site currently available is the Bakewell Road Development site. However, it is considered that the hotel development proposed is of a scale that would only contribute to, and not prime, the development of this site. In this respect, if considered sequentially to other sites, the application site is a brownfield site set relatively close to the town centre. It is also set directly onto the A6, can be accessed by bus and is
within reasonable walking distance of the town centre and the railway station. In this respect, the site is considered to be a relatively sustainable location for the proposed development given there are limited opportunities at present for such a development within the town centre. The aims of national guidance in relation to siting such uses are considered to be satisfied.

The proposed development is also regarded as a reasonable response to the need to develop the application site and to meet with the District Council’s objectives in its Tourism Strategy to increase the proportion of staying visitors. As such, it is considered that the proposed development is acceptable in principle subject to the consideration of the following matters:

- impact on the character and appearance of the area
- relationship to surrounding properties and land uses
- access and parking
- flood risk and drainage

2. The Impact on the Character and Appearance of the Area

The site is currently a derelict area of land which detracts from the setting of the leisure centre, the approach to Morledge and views from the A6 and wider area. In this respect, the redevelopment of the site is supported.

The proposed development has been designed to reflect to some extent on the contemporary ARC leisure centre development which sits above the site. The ARC has a prominence in the streetscape/landscape and therefore any development in the foreground should not detract in scale, design or materials. In this respect, a sense of integration in the modern form of the buildings and the type of materials used is considered the appropriate approach.

The plinth of the proposed building would be a direct reflection of that of the ARC. The render finish proposed on the front elevation again copies through this detail on the ARC. The zinc cladding is also a reflection of the roofing material of the ARC (in distant views across the valley it is considered that this will integrate the two developments). Whilst separated from the site, the cladding proposed to the hotel would be a reflection on the cladding that forms the upper part of the Gateway Court development nearer to the town.

The building is three storeys in height but it is considered that its height and alignment will not impinge on the view of the ARC. It is considered appropriate that, given the proximity and overlooking of the site by the ARC that the building proposed is far more appropriate responding to its design and scale than that of the residential properties in the area. Given the above, the building is considered acceptable in its design, materials and context.

Some amendments to the scheme were secured by Officers during the consideration of the application. These have included increasing the height of the zinc clad element of the building fronting the A6 by 0.7m, to provide a parapet and give a greater degree of prominence to this element of the building. In addition, the proposed orange panelling adjacent to the windows is now proposed to be in a grey colour to match the window frames.

3. Impact on Amenity of Neighbours

The nearest property affected by the proposals is 114 Bakewell Road which is set some 8m to the south west of the proposed hotel. This has side facing windows overlooking the site which include secondary ground floor living room and kitchen windows and a first floor
bathroom window. However, whilst relatively close, it is not considered that there will be
an outlook from the bedroom or corridor windows of the hotel into the neighbour’s windows
to an extent that would lead to a significant loss of privacy to occupiers of the
dwellinghouse.

134 Bakewell Road is within 9m of the proposed development. However, there is
significant screening between this property and the application site and the only window
that looks towards the dwellinghouse that is in relative proximity is that of the central
corridor on the upper floor of the hotel. It is considered that the development would not
impact on the privacy of occupiers of dwellinghouses opposite Morledge given the relative
distance of some 28m to the nearest property.

Other matters for consideration are the impact that the hotel may have on residents in
terms of noise and odours. The District Council’s Environmental Health Section has
suggested that the deliveries are restricted to between 8am to 8pm Monday to Saturday
and 10.00 to 16.00 on Sundays and Bank Holiday. The applicants advise that they have
deliveries of some sort each day. On a Sunday and Bank holiday these are restricted to
laundry. Deliveries are also restricted to between 7am and 8pm due to the applicant’s
good night guarantee, albeit the applicant would accept a planning condition to reflect
this. In addition, the applicant considers the number of deliveries each day to be rather
minimal. On this basis, Officers consider it unnecessary to require a condition restricting
the times of deliveries.

The District Council’s Environmental Health Section has also advised a noise assessment
be submitted with regard to the ventilation system and details of the kitchen extract system
will also be required to allow an assessment of possible odour generation. This is
considered reasonable given the proximity to neighbouring residential properties.

The applicant advises that the use of the bar by non-residents is very unlikely. The bar
does not sell draft beer and therefore, the applicant considers that this will not be an
appealing venue for non-residents. Doors are also locked at 11pm and are only opened to
let guests in. In this respect, it is considered that the management of the hotel would limit
any potential disturbance.

4. Access and Parking
The Local Highway Authority has advised that whilst the proposed number of car parking
spaces is less than normally recommended, that there are no objections on this basis due
to the parking available within the Ark Leisure Centre adjacent to this site. Furthermore,
as the proposed restaurant is to be used by the hotel guests only, it’s unlikely the car park
will operate at full capacity on a regular basis.

The Highway Authority has received representations from members of the public
requesting that consideration be given to reducing the speed limit on the A6, due to the
additional traffic generated by the development and overcome perceived issues at the
existing junction with the A6.

In January 2006 the Department for Transport published guidance circular 01/2006 (now
replaced by circular 01/2013) on setting local speed limits, which sought a common
national approach on the setting of limits, highlighting the need to manage speed in a way
that is appropriate for the road function and local characteristics. Following release of this
guidance, the Secretary of State ordered a countrywide review of all 'A' and 'B' classified
roads. This review has now been completed in Derbyshire, with changes to speed limits
implemented where appropriate. Further traffic from the development would not be sufficient justification in itself for altering the speed limit and it would therefore be unreasonable for this to be sought as part of the development, to make the proposals acceptable.

One modification the Highway Authority does propose is the width of the access into the car park. At points, the width of this existing access is less than the recommended 4.8m. Therefore, in order to allow for two-way traffic, the Local Highway Authority recommends the width of the access be no less than 4.8m over its entire length and a condition can be attached for the revised drawings to be submitted in this respect.

5. Flood Risk and Drainage
The application site is within Flood Zone 2 and the Environment Agency has referred the Local Planning Authority to its Standing Advice for considering matters of flood risk. However, the site is a contaminated, brownfield site and is considered to be a preferential site for development than greenfield sites which are being placed under pressure for development.

The applicant has submitted a Flood Risk Assessment. This advises that the site is not susceptible to 1 in a 100 year risk of flooding. However, if climate change is factored in it is shown that the site would be susceptible to flooding. As such, the Flood Risk Assessment recommends that the finished floor levels and the access to the site are set to a minimum 1 in a 100 year plus climate change. The flood level is defined as being 93.92m AOD. However, the levels of the building are shown to be set at 94.5m AOD and in this respect, the proposals are considered to be acceptable.

It is also recommended that flood resilience techniques are incorporated into the building design and that the applicants sign up to the Environment Agency’s Flood Alert and Warning Scheme. Other recommendations are to test the viability of infiltration techniques, the possibility of disposing of surface water into the River Derwent and that the drainage design is conducted along with consultation with Severn Trent Water. In this respect, it is considered reasonable to attach a Condition that the development is carried out in accordance with the Flood Risk Assessment.

6. Ecology
The applicant has submitted an ecological appraisal of the site. This advises that the site has a low ecological potential. However, the semi-natural woodland provides nesting opportunity for birds and there are potential foraging areas for reptiles. In this respect, it is considered reasonable to attach a condition to any grant of planning permission that the development is undertaken in accordance with the conclusions and recommendations of the ecological appraisal.

7. Site Contamination
The applicant has conducted a desk top study of potential risks from contaminated land and identified, given its history as a landfill site, that the risks are high. In this respect, it is necessary to attach appropriate conditions to any grant of planning permission to ensure that appropriate mitigation measures are undertaken.

8. Designing Out Crime
The applicant has advised that they propose to install CCTV but have provided no information of where this would be sited. As such, it is considered reasonable to require a condition that details of this are submitted for approval. In addition, there would be a likely
need for lighting to the car park area for the purposes of safe access and security. In this respect, it is also considered reasonable to attach a condition to any grant of planning permission to detail the nature and positioning of any lighting proposed on the building and around the site.

9. Conclusion
It is considered that the development is sustainably located and will be an enhancement to the site and, in its design and scale and the use of materials, will complement and preserve the setting of the ARC leisure centre. The hotel will add to the nature of accommodation available within the District to encourage staying visitors to the area and the facility will also provide employment which would be likely to be taken up by local persons. In this respect, 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. The development hereby approved shall be carried out in accordance with the original plans and specification, except as amended by the drawings and information received on 4th August and 20th August 2014, and except insofar as may otherwise be required by other conditions to which this permission is subject.
3. Condition DM1 All Materials to be Approved: General
4. Condition DM26 Window/Door Frames: Details Required
5. Notwithstanding the details on the approved drawings, before the development commences, details of the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. These shall be erected in accordance with a phasing plan for the development to be first agreed in writing by the Local Planning Authority and shall thereafter be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
6. Notwithstanding the details on the approved drawings, no development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
   a) all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
   b) measures for the protection of retained vegetation during the course of development;
   c) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection; and
   d) hard surfacing materials.
7. Condition LA13 Landscape Works: Implementation
8. 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.

9. Before any other operations are commenced, the existing access shall be modified in accordance with a revised application drawing, to include an access width of a minimum 4.8m over its entire length, laid out, constructed and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access, to the extremities of the site frontage abutting the ARC access road in each direction. The land in advance of the sightlines shall be maintained in perpetuity clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway edge.

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

11. The proposed restaurant shall be ancillary to the hotel use only and not be open to the general public who are not using the hotel.

12. 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 visitors/ staff/ customers/ service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

13. 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. a survey of the extent, scale and nature of contamination;

ii. an assessment of the potential risks to:
   - human health;
   - property (existing or proposed), including buildings, crops, livestock, pets, woodland and service lines and pipes;
   - adjoining land;
groundwaters and surface waters;
- ecological systems;

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, buildings and other property and the natural and historical environment must be prepared, 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.

14. Unless otherwise agreed by the Local Planning Authority, occupation or use of the development shall not commence until sections (i) and (iii) 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 (ii) has been complied with in relation to that contamination.

(i). Implementation and Validation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms, 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 (referred to in PPS23 as a validation 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.

(ii). 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.

(iii) Importation of soil to site
In the event it is proposed to import soil onto site in connection with the development or remediation the proposed soil shall be sampled at source and analysed in a UKAS accredited laboratory. The results of the analysis, and an interpretation, shall be submitted to the Local Planning Authority for consideration prior to importation. Imported topsoil shall comply with British Standard 3882:2007 - Specification for topsoil and requirements for use. Only the soil approved in writing by the Local Planning Authority shall be used on site.

15. The development hereby approved shall be carried in accordance with the recommendations of the Flood Risk Assessment received on 8th July 2014.

16. The development hereby approved shall be carried in accordance with the recommendations of the Ecological Appraisal received on 8th July 2014.

17. Before the development is first brought into use, details of the positioning of CCTV cameras and the type and positioning of all external lighting around the site shall be submitted to and approved in writing by the Local Planning Authority. This shall thereafter be provided in accordance with the approved details before the development is brought into use.

18. Before the development is commenced details of the means for attenuation of cooking odours from the restaurant shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided as approved, prior to the premises being first brought into use.

19. Before the development is commenced, background noise levels at the site shall be recorded and details of the means for the attenuation of noise from the proposed refrigeration units and any extraction systems, shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided as approved, prior to the premises being first brought into use.

Reasons
1. Reason ST02a

2. To define the permission

3-4. To ensure the satisfactory appearance of the development to comply with Policies SF1, SF5, EDT8 and EDT18 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

5-7. To ensure the satisfactory appearance of the development to comply with Policies SF1, SF5, EDT8, EDT18 and NBE26 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

8. In the interests of highway safety.

9. In the interests of highway safety to comply with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.
10. In the interests of highway safety.

11-12. To ensure the provision of adequate parking facilities in the interests of highway safety to comply with Policy TR8 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

13-14. 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.

15. To ensure the development adequately addresses flood risk concerns in accordance with government guidance contained in the National Planning Policy Framework.

16. To safeguard protected species to comply with Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

17. In the interests of crime prevention and to ensure the satisfactory appearance of the development to comply with Policies SF1, SF5, EDT8, EDT18 and NBE27 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

18. To safeguard the amenity of occupiers of residential properties to comply with Policies SF1 and EDT8 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

19. To safeguard the amenity of occupiers of residential properties to comply with Policies SF1 and EDT8 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

NOTES TO APPLICANT:

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

2. The application proposals are affected by a Prescribed Building Line under the Roads Improvement Act 1925. Whilst it is an offence to undertake building works in advance of this line, it may be possible for the applicant to apply to rescind the line(s). The applicant is advised to write to the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock, DE4 3AG, at least 6 weeks before commencing works requesting that the line be removed and confirming that they will meet the Authority’s administrative / legal costs if the removal is approved. For further advice, please contact Mr G Hill, Principle Engineer, Development Control (tel: 01629 538647).
3. The Local Planning Authority has, prior to the submission of the application and during its consideration, engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame concerns relating to the design and materials of the development.

4. 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.

5. This decision notice relates to the following documents:

- Drawing Nos. P1478/AP/11A, 14B, 20, 21B and 22A received on 8th July 2014
- Additional Information received on 20th August 2014
- Design and Access Statement received on 8th July 2014
- Planning Statement received on 8th July 2014
- Statement of Community Involvement received on 8th July 2014
- Noise Impact Assessment received on 8th July 2014
- Ecological Appraisal received on 8th July 2014
- Transport Statement received on 8th July 2014
- Travel Plan received on 8th July 2014
- Stage 1 Flood Risk Assessment received on 8th July 2014
- Drainage Plan 12197/500/Rev. T3 received on 8th July 2014
- Phase 1 Desk Study and Preliminary Risk Assessment received on 8th July 2014
- External Lighting Layout Plan received on 8th July 2014
7. 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. 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.

8. This decision notice relates to the following documents:

Drawing Nos. 1950/P 500, 501, 502, 503 and 506 received on 12th June 2014
Amended Drawing Nos. 1950/P 504 A and 505A received on 23rd June 2014
Design and Access Statement received on 12th June 2014
Drainage and Water Search received on 12th June 2014
Heritage Statement received on 31st July 2014
14/00404/OUT

Ivy House, Nottingham Road, Tansley

Derbyshire Dales DC
Date: 20/08/2014
100019785
THE SITE AND SURROUNDINGS:
The site is an open area of greenfield land situated outside the settlement framework boundary for Tansley. There is a hedge screening the site to the south. A small stream runs through the site along the southern boundary. The grade II listed Ivy House is situated to the north east of the site and the garden to this property is situated to the east of the site again with boundary hedging. The existing field access to the site is via Nottingham Road.

THE APPLICATION:
Outline planning permission is sought to erect a dwelling to the southern end of the existing greenfield. All matters are reserved for subsequent approval. Indicative details have been submitted for the access and the siting and design, but these are indicative only and not for determination at this stage.

Access to the site is proposed to be via the existing access on Nottingham Road with a driveway to the proposed property. The dwelling is to be situated to the southern end of the site to a height of 1.5 storeys and of a barn type design.

RELEVANT HISTORY:
13/00040/FUL Erection of dwelling and associated access – Refused

CONSULTATIONS:
Parish Council – Object as it is outside of the settlement framework boundary

Local Highway Authority – The existing access onto Nottingham Road, which the applicant intends to use to serve the proposed dwelling, has severely substandard emerging visibility, approximately 2.4m by 10m in either direction. The recommended visibility to the east should be 2.4m by 52m and to the west 2.4m by 43m. As the proposal is likely to increase traffic associated with the substandard access and the applicant is not showing any control of land either side of the access, preventing any potential visibility improvements, the Highway Authority recommends refusal on the grounds that:

The proposed development, if permitted, would likely lead to the intensification in use of an existing substandard access to Nottingham Road (A615), where emerging visibility is severely restricted due to third party land and third party buildings, thereby leading to potential danger and inconvenience to other highway users and interfere with the safe and efficient movement of traffic on the adjoining highway.

Conservation Advisory Forum – Object to the scheme. The scheme is considered to be prejudicial/harmful to the setting of the listed building, particularly in the ‘carving up’ of the historic curtilage. The introduction of an additional dwelling would introduce a dominant feature which would impact upon the character and appearance of the listed building and the wider site which would result in excessive intrusion.
REPRESENTATIONS:
One letter from a resident of Derbyshire Dales:
The development affects the setting of a listed building and has previously been refused.

One letter from a neighbouring resident:
Whole hearted support, the applicants have been our neighbours for many years and are valued members of the community, this proposal would allow them to retire to a suitable property which is sympathetic to the surroundings.

POLICIES:
Adopted Derbyshire Dales Local Plan 2005
SF4: Development In The Countryside
SF5: Design And Appearance Of Development
H4: Housing Development Outside Settlement Framework Boundaries
H9: Design And Appearance Of New Housing
NBE8: Landscape Character
NBE16: Development Affecting A Listed Building
TR1: Access Requirements And The Impact Of New Development
TR8: Parking Requirements For New Development

Derbyshire Dales Submission Draft Local Plan May 2014
Development Management Policy 2 - Development In The Countryside
Development Management Policy 6 – Landscape Character
Development Management Policy 8 – The Historic Environment
Development Management Policy 9 - Design And Appearance Of Development
Development Management Policy 22 – Access And Parking

National Planning Policy Framework and National Planning Policy Guidance

ISSUES:
The issues for consideration are the principle of development in this location, the impact upon the setting of the listed building, the impact upon the character and appearance of the area and the impact upon highway safety.

Principle
The application site whilst in close proximity to existing residential development is a green field site where housing becomes more sporadic leading into the open countryside. In the Submitted Draft Local Plan and the Adopted Local Plan this area of land has been considered to be outside of a settlement due to the open green field character of the area.

Paragraph 49 of the NPPF advises that housing applications should be considered on the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

The Draft Local Plan has been Submitted for Examination in Public and preliminary findings shown that the allocation of housing land does not meet the objectively assessed need and therefore further work needs to take place in terms of allocating sufficient housing land before the examination in public is resumed. Therefore in accordance with Paragraph 49 of the NPPF the policies of the local plan relating to the supply of housing are considered to be out of date.
Notwithstanding this, the lack of housing land supply has to be considered on a District wide basis and does not in itself override the existing policies of the Adopted Derbyshire Dales Local Plan in terms of building one off plots in open countryside, which remains in line with guidance contained within the NPPF in paragraphs 17 and 55. The allocation of sufficient housing land needs to be considered holistically and not on a plot by plot basis.

Without any overriding need or justification for this dwelling in an open countryside, greenfield setting its provision would be inherently encroaching upon the countryside and harmful to the prevailing character and appearance of area, contrary to guidance contained within the NPPF and Policies SF4, SF5 and NBE8 of the Adopted Derbyshire Dales Local Plan.

### Setting of Listed Building

The siting of the dwelling with associated driveway and garden is in close proximity to the grade II listed building. The impact the development will have upon the setting of the listed building therefore has to be carefully considered. As the application is in Outline only with all matters reserved it is considered that subject to appropriate treatments to surfaces, landscaping and boundary treatments along with an appropriate design and siting of the dwelling, a single storey dwelling in the form of an outbuilding or other functional building can be accommodated on the site without harming the setting of the listed building. Whilst the Conservation Advisory Forum fear that harm would be caused to the setting of the listed building, this is not the view of the Local Planning Authority and it is considered that appropriate design solutions and conditions would prevent any such harm.

It is therefore considered that the proposal is acceptable in terms the impact upon the setting of the listed building in accordance with Policy NBE16 of the Adopted Derbyshire Dales Local Plan, Development Management Policy 8 of the Submitted Draft Local Plan and guidance contained within the National Planning Policy Framework.

### Character and Appearance

Policies SF4, SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) align with guidance contained at Part 7 of the National Planning Policy Framework, which states in respect of design that development should add to the overall quality of the area and respond to local character and history, and reflect the identity of local surroundings. It is recognised that good design is a key aspect of sustainable development and should contribute positively to making places better for people.

Although indicative, the design submitted is a 1.5 storey barn type building with projecting gable and a number of openings. The design of the openings is at odds with the barn design and is considered to be an incongruous and non-traditional form of development that is harmful to the prevailing character and appearance of the locality. However, as the design is indicative only and a solution could be found to the design through negotiation it is not considered that the application should be refused due to the impact of the development upon the prevailing character and appearance of the locality.

The area of land proposed to be developed is a large square area of green field leading into open countryside. A public footpath runs along the southern edge of the site. In this location built development becomes more sporadic compared with the remainder of Tansley and the existing greenfield is an attractive open space to the frontage of the grade II listed building. It is considered that the development of this open green field will be harmful to the character and appearance of the area contrary to Policies SF4, SF5 and NBE8 of the Adopted Derbyshire Dales Local Plan and Development Management Policy.
9 of the Submitted Draft Local Plan along with guidance contained within the National Planning Policy Framework.

**Highway safety**

Although indicative the existing vehicle access onto Nottingham Road is considered to be substandard. As the proposal is likely to create an increase in traffic associated with this substandard access the highway authority have recommended refusal on the basis that the development will lead to an intensification in the use of a substandard access leading to potential danger and inconvenience to other highway users. As such the indicative proposal is contrary to Policy TR1 of the Adopted Derbyshire Dales Local Plan and Development Management Policy 22 of the Submitted Draft Local Plan.

Under previous application 13/00040/FUL it was determined that access from the southern end of the site via Thatchers Lane was not acceptable on highway safety grounds. The reason for refusal was as follows:

‘Gaining access to the site will entail material intensification in use of an existing substandard access to a classified road (via the unmade track) that exhibits very limited emerging visibility from a 2.4m minor road viewpoint. The proposal would also be served by a route that due to geometry, construction and turning limitations may not be suitable to safely cater for additional residential development. As such the proposal will result in conditions prejudice to highway safety, contrary to Policy TR1 of the Adopted Derbyshire Dales Local Plan.’

Therefore although a reserved matter the applicant has failed to demonstrate how access could be safely gained into the site from the existing red edge site boundary, this fundamental issue is therefore a reasonable reason for refusal despite the Outline nature of the application.

**Conclusion**

The development of this green field parcel of land in a countryside location would be encroaching, unwarranted and harmful to the prevailing character and appearance of the countryside. Whilst it has been acknowledged that the insufficient land has been allocated for housing under the Submitted Draft Local Plan this should not be a basis upon which to allow development on a piecemeal basis, the allocation of housing land should be carried out through the Local Plan process on a holistic basis. The proposed access is substandard and permission has previously been refused for an alternative access along Thatchers Lane. Therefore an increase in the use of either of these access points will be a danger to highway safety. As a result the proposal is recommended for refused.

**OFFICER RECOMMENDATION:**

To refuse planning permission for the following reasons:

1. The proposed development would involve the construction of a new open market dwelling in open countryside. The development of this green field will be inherently encroaching, unwarranted, and harmful to the prevailing character and appearance of the countryside in this location. As such, the proposal is contrary to the aims of Policies SF4, SF5 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

2. Gaining access to the site will entail material intensification in either the use of an existing substandard access to a classified road via Thatchers Lane or the
intensification in the use of the substandard access onto Nottingham Road. The Thatchers Lane access would also be served by a route that due to geometry, construction and turning limitations may not be suitable to safely cater for additional residential development. The applicant has therefore failed to demonstrate how safe access to the site will be gained without causing harm to highway safety as such this fundamental objection to the proposal is contrary to Policy TR1 of the Adopted Derbyshire Dales Local Plan.

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

This decision notice relates to the following documents:
Location plan 980-001 received 16.06.14
Email from agent dated 15.07.14
Indicative elevations and floor plan received 15.07.14
Indicative site sketch 002 received 16.06.14
Planning statement received 16.06.14
Submission to Derbyshire Dales Local Plan Pre-Submission Draft Consultation received 16.06.14
### PLANNING APPEAL - PROGRESS REPORT

Report of the Director of Planning & Housing Services

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<td>Allowed – copy of decision attached</td>
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<tr>
<td>13/00779/FUL</td>
<td>Trevelyan House, Dimple Road, Matlock</td>
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WR - Written Representations  
IH - Informal Hearing  
LI - Local Inquiry  
PI – Public Inquiry  
HH – Householder  

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decision

Hearing and Site Visit on 13 August 2014

by William Fieldhouse BA (Hons) MA MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 August 2014

Appeal Ref: APP/P1045/A/14/2215097
Barnes Croft, Canterbury Road, Wirksworth, Derbyshire DE4 4GY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr David Garner against the decision of Derbyshire Dales District Council.
- The application Ref 13/00479/FUL, dated 21 June 2013, was refused by notice dated 6 November 2013.
- The development proposed is the erection of one new dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the erection of one new dwelling at Barnes Croft, Canterbury Road, Wirksworth, Derbyshire DE4 4GY in accordance with the terms of the application, Ref 13/00479/FUL, dated 21 June 2013, subject to the five conditions set out in the attached schedule.

Preliminary Matter

2. There have been a number of previous planning applications for the erection of a dwelling on the appeal site, all of which were refused by the Council, with two appeals being dismissed. The present scheme has been designed with the intention of addressing the harm previously found. The layout and design of the current proposal differ significantly to those before the other Inspectors, not least because the dwelling is positioned further forward on the site, but in so far as they are relevant I have taken account of their findings.

Main Issues

3. The main issues are:

- the effect that the proposed dwelling would have on the character and appearance of the area;
- the effect that the proposed dwelling would have on the living conditions of the occupants of the adjoining house, 24 Nether Gardens; and

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1 Appeal refs APP/P1405/A/08/2088703 (dismissed 18 May 2009), and APP/P1405/A/10/2122047 (dismissed 23 August 2010).

www.planningportal.gov.uk/planninginspectorate
whether the proposal would be likely to lead to the felling or severe pruning of the mature trees located on land to the south of the site.

**Reasons**

4. The appeal site is within the settlement of Wirksworth as defined in the Derbyshire Dales Local Plan (2005), not far from the town centre and suitably located for residential development. The surrounding area includes a variety of dwellings and other buildings in terms of their age, size, layout and design.

5. The site is rectangular in shape, being around 15 metres wide, and extending nearly 60 metres back from the road. To the rear are four recently-built houses served by a private drive that runs along the side of the site. Immediately beyond that drive is a row of mature trees, including a large sycamore close to the road, which are protected by a Tree Preservation Order and add significantly to the quality of the area. To the north is Nether Gardens, a small estate of mid-20th century, two-storey, semi-detached houses, including No. 24 the side elevation of which is a short distance from the shared boundary with the appeal site.

6. The proposed detached house would be located towards the front of the site, with its principal elevation aligned with that of No. 24. Its width, height, roof pitch, materials, fenestration, and other design features would be similar to the existing houses on Nether Gardens. A small front garden and a long back garden, with space to park two cars at the end, would be provided. Vehicular access would be by way of the existing shared private drive along the side of the site.

**Character and Appearance**

7. The dwelling would stand in the existing gap between Nether Gardens and the row of mature trees immediately to the south. It would be visible from various public vantage points, and essentially be seen in the context of the existing houses to one side and trees to the other, rather than as part of the wider street scene due to the fact that other buildings are some distance away.

8. As part of the site is occupied by the shared access drive, the effective plot width would be around 8 metres and there would be little garden space to either side of the house, the wall on the boundary with No. 24 being only around one metre to the north and the drive to the south being a similar distance away. However, several of the semi-detached houses on Nether Gardens are only marginally further from their side boundaries. Furthermore, there would be a gap of nearly five metres between the side of the proposed dwelling and that of No. 24, and a wider space between the house and the trees to the south. It would not, therefore appear cramped or unduly close to existing buildings or trees.

9. Whilst detached properties typically have wider plot widths and more space around them than semi-detached houses, this is not always so. In this case the open areas around the proposed building, its position on the building line defined by the adjoining row of houses, and its detailed design mean that it would not appear incongruous in the street scene but rather as a minor and complimentary addition to the existing group of houses to the north.
10. The L-shaped form of the back of the house would not be apparent from the public roads, and in any case other houses nearby, including No. 24, have rear extensions of various types meaning that there is no uniform character to that side of the existing properties. An additional dwelling in the street would have a negligible impact on views of the hills surrounding the town other than from an extremely limited number of vantage points close to the site.

11. I conclude on the first main issue that the proposal would not materially harm the character or appearance of the area and would be consistent with the objectives of national policy and local plan policies SF1, SF5, H1 and H9 which collectively seek to ensure good design and that new housing development preserves or enhances the quality and local distinctiveness of its surroundings.

Living Conditions

12. No. 24 has a number of small side windows close to the site, one of which is to a habitable room. However, this is a secondary window to the kitchen, the main outlook from which is through a window facing the back garden. The nearest part of the proposed two-storey side elevation would be less than five metres from the side kitchen window, but the L-shaped design of the proposal means that part of the building would be further away. Furthermore, the proposed building would not project beyond the rear elevation of No. 24 meaning that an aspect to the south east would be retained. Thus, whilst the proposal would have some effect on the outlook from, and daylight and sunlight to, the side windows in the adjoining property, it would have only a marginal effect on habitable rooms in these regards.

13. I conclude on this issue that the proposal would not materially harm the living conditions of the occupants of 24 Nether Gardens and would be consistent with the objectives of national policy and local plan policies SF1, SF5, H1 and H9 which collectively seek to ensure that development is well-related to, and does not have a detrimental impact upon the amenities of, surrounding properties.

Trees

14. Whilst the proposal would entail some alterations to the shared access drive, these would be minor, and the dwelling itself would be located sufficient distance away to mean that excavation and building works would be highly unlikely to affect the roots of the adjoining trees.

15. The side of the house would be around eight metres from the large sycamore tree near the road and just within the spread of its canopy. However, the only windows facing the tree would be to an en-suite bathroom and toilet, with outlook from, and light to, the habitable rooms being provided by windows in the front and rear elevations. The trees further from the road would affect the amount of sunlight in the back garden, and to some degree light to the rear of the house, but would not result in overly dark or oppressive conditions given the intervening distances.

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16. The proximity of the sycamore would mean that there may be some risk of the tree, or branches, twigs and sap, falling on and around the house. At the Hearing the Council cited examples of houses located a similar distance from large trees being affected in this way, and of instances where trees have had to be removed for such reasons. However, the tree is in good condition, and there is no particular reason why, with appropriate arboricultural care in the future, any undue damage should be caused to a property close to the outer reaches of its canopy. There are numerous houses in the district, and elsewhere, where residents enjoy living close to large trees, and, whilst the sycamore will continue to grow, it is already mature meaning that any future occupants would be aware of its presence when choosing to move to the property.

17. I conclude on the final main issue that the development would be unlikely to lead to the felling or severe pruning of the mature trees located on land to the south of the site. The proposal would, therefore, be consistent with the objectives of national policy\(^4\) and local plan policy NBE6 which collectively seek to ensure that development does not have a direct or indirect adverse impact on trees which are important for nature conservation or their amenity value.

Other Matters

18. Local residents have raised a number of other concerns about the proposal. However, there is no substantive evidence that utility services would be in any way affected by, or present an insurmountable obstacle to, development. The highway authority has raised no objection subject to certain planning conditions and I have been given no convincing reasons why the proposal would cause any road safety problems provided that the access and parking arrangements shown on the submitted plans were made.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

Conditions

20. A number of conditions, including the five suggested by the Council, were discussed at the Hearing and I agree that most of these are necessary, subject to some alterations to improve clarity and ensure consistency with national policy and guidance\(^5\).

21. In addition to the standard conditions relating to the timing of development and compliance with the approved plans, a condition requiring samples of the external materials to be used on the dwelling is necessary to safeguard the character and appearance of the area. It was agreed at the Hearing that a condition requiring the submission and implementation of a landscaping scheme is needed for a similar reason.

22. It is necessary, in the interests of highway safety, to ensure the provision of appropriate access, visibility splays, and parking and manoeuvring areas. It was agreed at the Hearing that, whilst the works required in these respects

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are limited, additional details to those shown on the submitted plans are necessary. The details ought to include the method of carrying out the necessary works to the access in order to prevent damage to the roots of the nearby trees. The submission of those details, and the provision of the approved access and parking arrangements, can be ensured by the imposition of one condition rather than the two suggested by the highway authority. Given the width of the road in front of the site, and the limited amount of traffic that uses it, a condition relating to any future access gates is not necessary in the interests of highway safety.

William Fieldhouse

INSPECTOR
Appeal Decision APP/P1045/A/14/2215097

Appearances at the Hearing

For the Appellant

David Garner  Appellant
Roger Yarwood  DipTP MRTPI

For the Local Planning Authority

Helen Frith  Senior Planning Officer
Sylvia Gray  Landscape Officer

Interested Persons

Mike Radcliffe  Local Councilor
Schedule of Conditions

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

2) The development hereby permitted shall be carried out in accordance with the following approved plans: plan 1; plan 2 (ground and first floor plans); plan 3 (north side elevation); and plan 4 (front, rear and south side elevations).

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

4) No development shall take place until details of hard and soft landscape works, including means of enclosure, surface materials, and planting, have been submitted to, and approved in writing by, the local planning authority. These works shall be carried out as approved prior to the occupation of the dwelling and thereafter retained.

5) No development shall take place until details of visibility splay and the method of construction and surfacing of the access and parking and manoeuvring areas have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling hereby approved and thereafter retained.
Appeal Decision

Site visit made on 8 July 2014

by Matthew Birkinshaw  BA(Hons) Msc MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 August 2014

Appeal Ref: APP/P1045/A/14/2217275
Youth Hostels Association, Trevelyan House, Matlock, Derbyshire, DE4 3YH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Simon Brister (YHA (England & Wales) Ltd) against the decision of Derbyshire Dales District Council.
- The application Ref 13/00779/FUL, dated 5 November 2013, was refused by notice dated 6 February 2014.
- The development proposed is a residential development for eleven new dwellings.

Decision

1. The appeal is allowed and planning permission is granted for a residential development for eleven new dwellings at the Youth Hostels Association, Trevelyan House, Matlock, Derbyshire, DE4 3YH in accordance with the terms of the application, Ref 13/00779/FUL, dated 5 November 2013, subject to the conditions in the schedule at the end of this decision.

Main Issues

2. The main issues are:
   - The effect of the proposal on the character and appearance of the area;
   - Whether or not the proposal would make adequate provision for affordable housing and play space; and
   - The effect of the proposal on highway safety, having particular regard to on-street parking and congestion.

Reasons

Character and Appearance

3. The appeal relates to a section of car park at the rear of a large, 3-storey, metal-clad office building. Surrounding the site is a varied mix of housing. Dimple Road contains traditional stone properties and modern bungalows whilst neighbouring Wyvern Close, Megdale and Prospect Drive are characterised by predominantly 2-storey, brick built, suburban semi-detached properties.

4. Situated towards the rear of the site views of the proposed houses would be limited within the public domain. However, where glimpses of the scheme would be possible it would be seen in the context of the large, metal-clad office and the neighbouring suburban housing. As a result, I consider that the
combination of brick and render would reflect the different forms of
development which bound the site, and viewed in this context, the appearance
of the proposal would integrate successfully with its surroundings.

5. In terms of layout the majority of housing in the area is set back from the
street with driveways to the front and gardens at the rear. In response, the
proposal also reflects this suburban characteristic with driveways to the front
and gardens to the rear large enough for future occupiers to sit outside and
incorporate areas of planting. In total approximately 30% of the development
area would be dedicated to soft landscaping, or roughly 46% when taking into
account the tree-lined embankment to the south. Consequently, the scheme
would not be dominated by hard landscaping, nor would it represent a harmful
overdevelopment of the site.

6. The Council also raise concerns that there is no planting to mark the transition
between the remaining office car park and the new dwellings. However, this
would be demarcated by a change in level roughly 2m high and the appellant’s
evidence illustrates that the retaining structure could incorporate planting, such
as an open assembly ‘earthstone’ wall. This would provide a practical solution
to soften the transition between the two areas without removing more car
parking spaces. Ensuring that the final details were adequate, along with the
remainder of landscaping across the site, could be dealt with by suitably
worded planning conditions.

7. Concerns that the new site entrance would require the removal of the existing
stone wall, and that without any rear access bins would need to be stored at
the front of each property are also noted. However, whilst the wall would need
to be removed I see no reason why a replacement could not be included behind
the requisite visibility splay. Moreover, although it would be preferable to keep
bins out of sight, their visual impact would be limited given that only glimpses
of the scheme would be possible from Dimple Road.

8. I therefore conclude that the proposal would preserve and respect the
character and appearance of the area. As a result, it does not conflict with
Derbyshire Dales Local Plan Policies SF1 or H1 which require proposals to
preserve or enhance, and respect the character, appearance and setting of the
area. There is also no conflict with Local Plan Policy SF5 which requires
proposals to preserve or enhance the quality and local distinctiveness of their
surroundings, reinforce a sense of place and be well related to surrounding
properties. The scheme does not conflict with Local Plan Policy H9 either which
requires the design and appearance of housing to be in scale and character
with its surroundings, have regard to distinctive landscape features and provide
supplementary landscaping. For the same reasons the proposal also accords
with the National Planning Policy Framework (‘the Framework’) which seeks to
secure good design that reinforces or promotes local distinctiveness.

Affordable Housing and Play Space Provision

9. In the relevant market towns Derbyshire Dales Local Plan Policy H10 requires
the provision of 45% affordable housing on all sites of 0.5 hectares and above.
Local Plan Policy L6 also states that planning permission for residential
development will only be granted on sites over 0.4 hectares where appropriate
levels of outdoor play space, or a financial contribution in lieu are provided.
10. When taking into account the proposed alterations to the existing access the Council state that the site area would exceed the thresholds in Policies H10 and L6. Without making any provision for affordable housing or outdoor play space the proposal therefore conflicts with both policies. Their aims and objectives are also broadly consistent with the Framework which seeks to secure good design and deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

11. However, the Council confirm that the site is only ‘marginally’ above the relevant thresholds. It also includes largely undevelopable areas such as the tree covered embankment to the south and the access ramp from the adjoining office car park. Moreover, the only development plan policy cited in relation to affordable housing was adopted in 2005 and is based on a housing needs survey from 2001. For the purpose of the Framework it is therefore largely out of date. Whilst reference is made to the emerging Derbyshire Dales Local Plan, this is still only in draft.

12. At the planning application stage the Council also identified that because of the number of dwellings proposed any on-site play space would be limited and of no benefit to residents. Furthermore, given the inclusion of private gardens, and due to the proximity of existing open space at the Dimple playing fields a financial contribution was considered inappropriate. Based on the evidence provided there is nothing to suggest that even a partial contribution would therefore be necessary to make the development acceptable in planning terms.

13. On the other hand there are also several benefits that weigh in favour of the scheme. It would reuse a previously developed and largely underutilised area of car park close to Matlock town centre and would provide 11 new family homes in the context of the Framework, which seeks to boost significantly the supply of housing.

14. I therefore conclude that without making any provision for affordable housing or play space provision the proposal conflicts with Local Plan Policies H10 and L5. However, the Council’s evidence suggests that it would only marginally exceed the relevant site area thresholds. The only development plan policy referred to in relation to affordable housing is also largely out of date, and no evidence has been provided to indicate that off-site play space is necessary given existing provision nearby. On balance therefore, and in the absence of any harm having been identified, in this instance the benefits of the proposal justify a departure from Local Plan Policies H10 and L6.

**Highway Safety**

15. By redeveloping part of the existing car park spaces available for YHA staff would be reduced. However, the appellant’s evidence includes a car parking survey which found that during the busiest times of the week only a maximum of 55 cars were parked at Trevelyan House. Because 79 spaces would be retained for staff and visitors’ I am satisfied that sufficient car parking would therefore continue to remain available on site.

16. Moreover, a total of 23 bays are proposed for the 11 houses which would provide each property with 2 spaces. As a result, the scheme would not lead to additional, or hazardous on-street parking in the area. Should any significant future expansion of the office be proposed its affects would also be considered as part of a future planning application process.
17. Concerns regarding congestion and vehicular and pedestrian access are also noted. However, the County Council’s Highways Engineer has not raised any objections subject to increasing the visibility from the existing site entrance. Because of the relatively limited scale of the development, and taking into account the number of cars that could be accommodated on the site already I find no reason to disagree, and there would be no need to widen Dimple Road. Whilst a separate route onto Prospect Drive may be beneficial to pedestrians it is also unlikely that the slow speeds of vehicles using the shared access would put potential future occupiers at any significant risk.

18. I therefore conclude that the proposal would retain sufficient parking spaces for Trevelyan House and would not result in any hazardous on-street parking or congestion to the detriment of highway safety, even during periods of inclement weather. As a consequence, there is no conflict with the Framework which states that development should only be refused on transport grounds where the residual cumulative impacts are severe.

Other Matters

19. In reaching my conclusions against the main issues I have also taken into account the effect of the proposal on ecology. However, no concerns have been raised by the Council. Moreover, the appellant’s ecological survey concludes that individual habitats within and around the car park are of little value, and that subject to following the recommended mitigation measures there would even be a minor ecological gain as a result of the scheme.

20. The report also found that there is only a very low risk that bats are roosting within any of the buildings on site. Whilst two of the trees proposed for felling had a low/medium roost potential the mitigation strategy identifies that felling outside of roosting and hibernation periods, in addition to providing bat boxes, would be suitable. Compliance with the mitigation strategy would also minimise any harmful light pollution.

21. In addition to bats the survey assessed the potential for Great Crested Newts and concluded that no wetland habitat suitable for breeding was recorded on the appeal site and no newts were observed. The nearest adult Great Crested Newt was also recorded in 1996 over 700m to the south-west of Trevelyan House at Hall Dale Quarry. Thus, whilst local residents suggest that neighbouring gardens contain newts and other protected and priority species there is no evidence to substantiate this, or to lead to a robust conclusion that the redevelopment of the car park would be likely to affect their habitat.

22. I have also taken into account concerns regarding the living conditions of the occupiers of neighbouring properties, having particular regard to privacy, outlook, sunlight and noise. However, the Council confirm that at a distance of roughly 20m the degree of separation between the proposal and the nearest facing houses on Megdale would be sufficient not to cause any harmful loss of privacy. Based on the evidence provided, and considering the intervening trees and outbuildings I find no reason to disagree. The combination of oblique views, boundary landscaping and the change in level would also prevent any harmful overlooking of properties on Wyvern Close and Prospect Drive.
23. In terms of outlook some views of the wider area may be impaired by the development. However, due to the degree of separation between the scheme and houses on Megdale and Prospect Drive, combined with the intervening trees, it would not result in an overbearing or oppressive form of development for the occupiers of these properties. For the same reasons they would not be harmfully overshadowed by the scheme.

24. Elsewhere the side elevation of Plot 1 would be due south of the rear gardens of properties on Wyvern Close. However, the neighbouring properties are at a noticeably higher level than the appeal site and benefit from reasonably generous gardens. The proposal also involves roughly an additional 2m of excavation along the northern site boundary. As a result, and in the absence of any objections from the Council, I am not persuaded that the scheme would lead to a harmful loss of outlook or sunlight in this regard either.

25. Similarly, no convincing evidence has been provided to illustrate that the occupation of 11 family houses would lead to any significant noise disturbance. Whilst there would be some disruption during the construction process this would only be temporary and could be minimised through the use of a management plan. Likewise, no evidence has been provided to substantiate comments regarding drainage capacity and I have not been made aware of any objections from the Council. The requisite foul and surface water details could therefore be adequately controlled by the use of a planning condition.

26. I have also considered comments regarding property values and subsidence, although again no detailed information has been provided to substantiate these concerns. I can therefore attribute them only very limited weight. Any potential disputes or investigations into access rights would also be a matter for the relevant parties to pursue outside of the planning process.

27. Although raising no objections, the County Council recommended that the scheme should make provision for domestic sprinkler systems, broadband and meet Lifetime Homes standards. However, no evidence has been provided to demonstrate that these requirements form part of any adopted local planning policies or guidance, or that they would be necessary to make the proposal acceptable. Consequently, I have given these comments only limited weight.

28. Finally, the Council suggest that it now has a five year supply of deliverable housing land available. Representations from local residents also question the need for further housing in the area. However, the need to provide a five year supply of housing land is a minimum requirement. In the context of the Framework, which seeks to boost significantly the supply of housing, this does not justify dismissing what is an otherwise acceptable scheme.

Conclusion and Conditions

29. For the reasons give above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

30. Aside from the standard time limit condition it is necessary to list the approved plans, for the avoidance of doubt and in the interests of proper planning. Ensuring an adequate appearance also requires external materials to be agreed. However, I have not included a condition requiring plan amendments as these relate to materials, which would be adequately addressed by the
substitution of samples. The same condition could also include all flashings, gutters, downpipes and pipe work.

31. For the same reason it is necessary to require the approval of all windows and doors. However, given the mix of suburban housing and the proximity of the office block I see no reason to specify a minimum recess, or why only a scale of 1:1 and 1:5 is necessary. Likewise, in the context of a mixed suburban area it is unnecessary to restrict the installation of meter boxes and soil pipes.

32. In order to protect bats and other species, and create new habitats, it is necessary to restrict site clearance times and require development to be carried out in accordance with the recommended ecological mitigation strategy.

33. The character and appearance of the site and the surrounding area also require conditions relating to the protection of trees, the provision of a landscaping scheme and its maintenance thereafter. However, provided that any trees or plants which die, are removed or become seriously damaged or diseased within the first five years are replaced, it is unnecessary to specify that planting must be kept free from weeds and protected from vermin, which would be extremely difficult to enforce. For the same reason it is necessary to require boundary treatments to be agreed, although I have removed reference to retaining them in perpetuity. This would place an unreasonable burden on future occupiers who may wish to change the design or materials of their garden fences/walls etc. Given the size and function of retaining walls it is also highly unlikely that they would be removed.

34. In the interests of the living conditions of neighbouring residents, highway safety and the character and appearance of the area it is necessary to control working hours, manage goods and other vehicles, provide wheel washing facilities and provide for any fences or hoarding during construction. However, this can be dealt with under a single management plan and I have reworded the Council's suggested conditions accordingly.

35. Ensuring sufficient car parking spaces for Trevelyan House necessitates a condition requiring them to be provided in accordance with minimum sizes and to be retained thereafter, which I have added to the suggested wording. In the interests of preventing on-street parking and highway safety it is also necessary to ensure that the spaces for the proposed houses are laid out prior to occupation, to the relevant standards and retained thereafter.

36. The interests of highway safety also require the new access to be constructed before any of the dwellings, and to ensure that visibility splays are kept free from obstruction. That being the case, subject to completing the new access in accordance with the approved plans it is unnecessary to specify the length of sightlines.

37. Finally, in the interests of the living conditions of the occupiers of neighbouring properties, and given their proximity to the rear of the proposed houses it is necessary to remove certain permitted development rights as identified by the Council.

Matthew Birkinshaw

INSPECTOR
Conditions Schedule

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

2) Except where directed otherwise by conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, AS01, AP02, AP01/C and AL01/C.

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

4) No development shall take place until details of the proposed windows and doors along with their proposed finishes have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

5) The development hereby permitted shall be carried out in accordance with the recommendations in Section 6 of the Ecological Information Network Consultants Ecology Report (dated October 2013), unless otherwise agreed in writing by the local planning authority.

6) Demolition and clearance works shall only be undertaken at a time of the year (September – February) when disturbance to bats will be minimised, unless otherwise agreed in writing by the local planning authority.

7) Unless otherwise detailed in the Rycroft Associates Arboricultural Statement (dated September 2013), or otherwise agreed in writing by the local planning authority, all trees detailed on the approved drawings shall be retained and protected during the course of development in accordance with details first submitted to and approved in writing by the local planning authority. No works shall commence on site until the approved protective measures have been installed, and all works shall be carried out in accordance with the recommendations in Section 9 of the Arboricultural Statement.

8) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The details shall include:

- all existing trees, hedgerows and other vegetation on the site;
- all vegetation to be retained including details of the canopy spread of all trees and hedgerows within or overhanging the site in relation to the proposed buildings, road and other works;
- measures for the protection of retained vegetation during the course of development;
- all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
- hard surfacing materials; and
- a management plan for the future maintenance of all areas of landscaping outside of domestic curtilages.
9) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of the dwellings or in accordance with a programme to be agreed with the local planning authority.

10) No development shall take place until details showing the design, location and materials to be used on all boundary walls, fences, screen walls and other means of enclosure, to include a wall no less than 1.2m in height along the southern boundary of the car parking area to the south of the office building, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details which shall also include a schedule for their implementation.

11) No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and shall provide for:
   • the parking of vehicles of site operatives and visitors;
   • loading and unloading of plant and materials;
   • storage of plant and materials used in constructing the development;
   • the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
   • wheel washing facilities; and
   • hours of construction.

12) Prior to the construction of any of the dwellings hereby permitted 79 car parking spaces shall have been provided within the site in accordance with the approved plans. Car parking spaces shall measure a minimum of 2.4m x 4.8m and shall be retained for their intended use at all times thereafter.

13) Prior to the construction of any of the dwellings hereby permitted the existing access to Dimple Road shall be modified, laid out and constructed in accordance with the approved plans. The area in advance of the sightlines illustrated on the approved plans shall be kept free of any object greater than 1m in height, or 0.6m in the case of vegetation relative to the adjoining nearside carriageway channel level.

14) Prior to the occupation of any of the dwellings hereby permitted space for the parking and manoeuvring of residents/visitors vehicles shall be laid out and surfaced in accordance with the approved plans. Car parking spaces shall measure a minimum of 2.4m x 4.8m and shall be retained for their intended use at all times thereafter.
15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions, windows or dormer windows shall be constructed on any of the dwellings hereby permitted under the provisions of Schedule 2, Part 1, Classes A and B.
Appeal Decision

Hearing held on 29 July 2014
Site visit made on the same day.

by Stephen Brown MA(Cantab) DipArch RIBA
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 August 2014

Appeal Ref: APP/TPO/P1043/3687
9 Hackney Road, Matlock  DE4 2PW

- The appeal is made under Regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake works to a tree protected by a Tree Preservation Order.
- The appeal is by Tessa Whittaker against the decision of Derbyshire Dales District Council.
- The application Ref. T/13/00112/TPO dated 20 September 2013, was refused by notice dated 4 December 2013.
- The work proposed is to fell silver birch identified as T1 in the Tree Preservation Order.
- The relevant Tree Preservation Order (TPO) is the Trees at Rockfield, Hackney Road, Matlock, Tree Preservation Order 1995 - Tree Preservation Order no. 108, dated 27 April 1995, and confirmed on 10 August 1995.

Decision

1. The appeal is dismissed.

The main issues

2. From my inspection of the appeal site and its surroundings, and from all that I have heard and read I consider the main issues in this appeal to be:
   - The effect of the proposed works on public amenity in terms of the character and appearance of the appeal site and the area in its vicinity; and,
   - Whether the proposed works would be justified by the perceived nuisance caused by the protected tree.

Reasons

3. The appeal property is a relatively modern detached two-storey house standing at a lower level than the road, and on its south-western side. At the back the garden slopes steeply down in several terraces. The silver birch tree identified as T1 in the Order stands about 6-7 metres away from the southern corner of the house, and is a slightly greater distance from the nearest corner of the adjacent house, no. 7.

4. The appellant is concerned that the tree has grown to an extent that it is disturbing paving and steps in the garden, may be damaging the nearby drain, and possibly the foundations of the house as well. The tree has grown too large for its location, close to two houses. Furthermore, in recent high winds there was concern that it might cause harm to people and/or damage to property.
5. I saw that the tree is probably about 15-16 metres tall, with the trunk branching into two main stems about 8 metres above the ground, and generally in good health. Lower branches have quite recently been pruned. There are no dead branches of any significance.

6. Seen from Hackney Road - and at a higher level, from Farley Hill - the silver birch is a conspicuous and handsome tree standing between the two houses, providing an attractive visual contrast with the neighbouring buildings, and to some extent integrating them into this generally wooded area. To my mind the form and size of the tree, as well as its position make it an important element in the landscape, and of considerable public amenity value. Its loss would cause significant harm to the appearance of the area.

7. I appreciate that other silver birches may have been felled nearby. However, none of those had been subject of a TPO. I also saw that this is a generally wooded area containing several other examples of silver birches in the vicinity. That may be so, but unlike the tree in this case they have not been identified as of particular public amenity value.

8. I conclude on the first main issue that the loss of the silver birch would cause significant harm to public amenity in terms of the character and appearance of the appeal site and the area in its vicinity.

9. Turning to the second main issue, no evidence was adduced of any movement in the structure of the house itself. Furthermore, there had been no investigation of the drain that runs through the inspection chamber that lies about 2.5 metres from the trunk of the tree. The Council had advised the appellant to obtain professional advice from a structural engineer or building surveyor, but none had been sought. Given the lack of investigation, and of any technical evidence, or visible physical evidence I cannot accept that fears of damage to these structures justify felling the tree.

10. I saw that stone steps leading down into the garden, and paving near the silver birch show signs of displacement and cracking. Paving slabs have lifted in close proximity to the tree, and this is probably a result of root action. This is quite likely to occur at such a short distance from a tree, and would normally be remedied as a maintenance item. However, the steps and paving generally have been there for many years, and given the gradient on which they are constructed, and the probability that they are on the relatively slight foundations normally suitable for landscape works, it is more likely that the deformation is largely the result of downhill movement. The degree of movement and cracking is not great. Although tree roots may be contributory, in my opinion - and in the absence of any technical evidence - this is a matter that would not be effectively dealt with by removal of the tree.

11. The tree has clearly been subjected to high winds throughout its life, probably most recently in the last winter. As noted above, it is in good health, with no dead or dying wood of any significance. There is nothing before me to indicate it is of particular danger to people, or to either of the houses. I cannot accept that fears of falling branches, or even the entire tree falling, are sufficient to justify its loss. Although a replacement tree is proposed, this would take many years to mature, and could not be justified without good reason to fell the existing tree.
12. The appellant has raised objections to the making of the Order itself. However, it is clear that it was made and confirmed in a proper manner, and is not now open to question.

13. I note that the Council record in their refusal notice that they have considered the possibility that the silver birch tree is causing shading of the garden or house, and that a further application might be considered for light thinning of the canopy. This option remains open to the appellant, and I consider some degree of thinning could considerably reduce any overshadowing.

Conclusions

14. For the reasons given above and having regard to all other matters raised, I consider the appeal should not succeed.

Stephen Brown

INSPECTOR
APPEARANCES

FOR THE APPELLANT:

Tessa Whittaker
Andrew Whittaker

The appellant.
The appellant’s husband.

FOR THE LOCAL PLANNING AUTHORITY:

John Bradbury
Sylvia Gray

Development Manager
Arboricultural Officer

Derbyshire Dales District Council.
Derbyshire Dales District Council.

INTERESTED PERSONS:

Brian Spencer
Clive Young (on site visit)

Neighbour.
Neighbour.

DOCUMENTS

1 Attendance list.
2 The Council’s letter of notification of the appeal, dated 21 February 2014.