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24 November 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 December 2014 at 6.00 pm in the COUNCIL CHAMBER, TOWN HALL, MATLOCK DE4 3NN.**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sandra Lamb', with a stylized flourish at the end.

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS As there is only one site visit, Members are requested to meet on site at **3.45pm prompt**. A schedule detailing the site 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

4 November 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.

Page No.

- | | | |
|------------|--|----------------|
| 4.1 | APPLICATION NO. 14/00672/FUL (Site Visit) | 4 - 13 |
| | Replacement of Band Hall with 6 apartments at The Hall, Jackson Road, Matlock. | |
| 4.2 | APPLICATION NO. 14/00636/FUL | 14 - 18 |
| | Erection of fence at Manor View, 75 High Street, Bonsall | |
| 5. | APPEALS PROGRESS REPORT | 19 - 28 |
| | 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 Jacquie 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

As there is only one site visit, Members are requested to meet on site at 3.45pm prompt.

| | | |
|---------------|-------------------------------------|---------------|
| 3.45pm | Application No. 14/00672/FUL | 4 - 13 |
|---------------|-------------------------------------|---------------|

THE HALL, JACKSON ROAD, MATLOCK

Requested by Ward Members to allow Members to fully appreciate the site and surroundings.

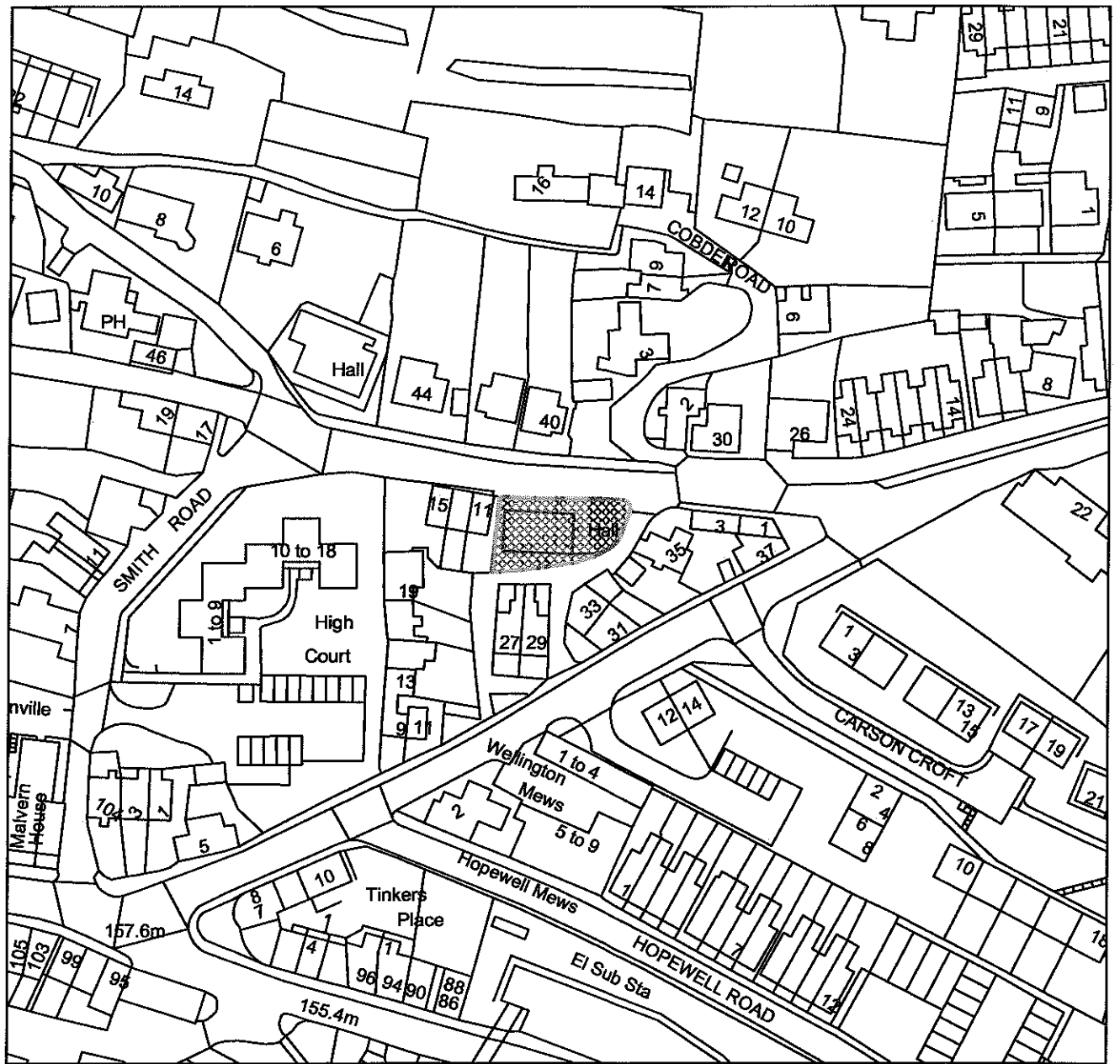
COMMITTEE SITE MEETING PROCEDURE

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.

14/00672/FUL

The Hall, Jackson Road, Matlock



Derbyshire Dales DC

1:1,250

Date: 21/11/2014

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

14/00672/FUL

REPLACEMENT OF BAND HALL WITH 6 APARTMENTS AT THE HALL, JACKSON ROAD, MATLOCK FOR MR JAMES PROBERT

Town Council: Matlock
Application type: Full

Date of receipt: 08.10.14
Case Officer: Mrs H Frith

THE SITE AND SURROUNDINGS:

The application site is the former band room which is a community building that has fallen into disrepair. The site fronts onto Jackson Road then slopes steeply onto a lane to the south which leads onto Wellington Street. The site is surrounded by residential development most of which is traditional to the east, west and south and more modern dwellings to the north. The site lies within the Matlock Bank Conservation Area.

THE APPLICATION:

Planning permission is sought to demolish the existing band room and replace it with a building containing 6 flats consisting of two 1 bedroom flats on the lower ground floor, two 2 bedroom flats on the ground floor and two 2 bedroom flats on the first floor. All of the flats are to be accessed via a central communal access leading from the front elevation to Jackson Road. The building is of 2 storeys in height with windows on the upper floor projecting above the eaves. The roof is stepped and lower than that of the adjacent terrace. There is a single storey element to the eastern end elevation.

To the rear the property would be enclosed by a boundary wall with gates giving private amenity space to the 2 lower ground floor flats and a central bin storage area. The rear elevation has been staggered with projecting bays to minimise the impact upon the neighbouring properties. The central entrance has a fully glazed elevation to allow light into the stair area. To the ground and first floor are projecting bay windows which project 0.3m with obscure glazing to the main panel and clear glazing to the corner elements to allow light and oblique views. On the receding elevations of the rear of the building there are elongated windows with high level clear glazing facing towards the south. Two of the projecting gables on the rear elevation have full height glazing serving the habitable rooms of the flats.

The building is to be of stone construction with slate roofing and a modern metal framing to the windows. Parking is proposed for four vehicles to the front of the building with surfacing defining the parking area and a central paved element to allow pedestrian access into the building.

The applicant has submitted a detailed design and access statement along with responses to the neighbour and Forum objections and a detailed analysis of the overlooking issues.

RELEVANT HISTORY:

0385/0180 Retention of building without compliance with condition 4 of WED/0478/248 – Permitted

0478/0248 Renewal of consent for social building for band practice and public performance – Permitted

CONSULTATIONS:

Highway Authority: The proposed level of off street parking is not ideal for the level of development but there are no grounds for a highway safety objection on this basis.

14/00672/FUL (Continued)

A bin dwell area should be provided clear at the parking area. Conditions and footnotes are recommended.

Town Council: Object – The development will put pressure on parking in the area. The plot is restricted in size and the density of development is excessive for the site. The design and appearance is harmful to the character of the area. Concern regarding loss of privacy.

Conservation Advisory Forum:

Members objected to the proposed scheme.

- Consider that the intensity of development leads to a number of elements that are harmful to the character and appearance of the Conservation Area. This relates to car parking area directly fronting the building which has a harmful impact on the street-scene in that the road has no direct sense of enclosure and a widened roadway is created. The lack of adequate space for facilities such as refuse bins could also have a harmful impact.
- Members felt that the design of the development demonstrated an over-detailed design and appearance, again due to the intensity of development and the constraints of the site. The complicated roof-line and blank end gable resulted in a visually piecemeal development displaying a scheme which was not appropriate to its location and context.

REPRESENTATIONS:

Matlock Civic Association:

Residential development acceptable in principle. Members found the plans difficult to interpret. This is overdevelopment of a severely restricted site. The density and massing especially to the rear contribute to lack of private garden/storage to each unit and poor amount of off street parking. Excessive density means too many windows that are out of character and non-traditional. Rear windows detrimental to street scene and will lead to loss of privacy.

Two letters of support:

A close neighbour welcomes the development which will have a positive effect on the immediate surrounding area. The existing building is an eyesore. The proposed development will ensure privacy is at least maintained if not improved. The size and shape will have some impact as existing. The traditional materials and finishing will be an improvement. The proposal will provide more housing stock.

Eight letters of objection:

Parking:

- Increased parking demand in an area where on street parking is difficult
- Essential services such as emergency vehicles and refuse lorries have had access blocked due to the parking difficulties
- Inadequate parking is to be provided for the number of units which could accommodate 20 people
- National policy and the government support the provision of adequate parking
- The proposal will also remove one existing parking space
- The parking will impact upon the visibility splays
- Pedestrian safety needs to be considered and disabled access

Amenity:

- The height of the proposed building

14/00672/FUL (Continued)

- The height of the building and its proximity to neighbours will result in overlooking and loss of light to those neighbours
- The existing building does not have extensive glazing as noted by the applicant; the glazing is at high level looking over the landscape
- With the access to the rear of the development people will be able to use the patio area to look down into our property
- Noise from the Band Hall has not been an issue; the building has not been in use for many years
- This will impact upon our standard of living
- The properties surrounding the site are not currently overlooked due to the location of roads and footpaths
- The garden of no. 35 is not overlooked but well screened by the parking area at the application site
- The large windows to the eastern elevation will overlook no. 35
- The impact of the development will be the same as having large viewing platforms overlooking the neighbouring properties
- The bays will cause overlooking
- There will be a loss of light caused by this development particularly during the summer evenings due to the height and position of the building
- One of the core principles of the NPPF is a good standard of amenity for all existing and future occupants
- A condition is required to ensure that the windows to the rear are none opening

Design and appearance:

- The substantial glazing is out of character
- The cumulative height, mass, density and design would look unduly prominent, be invasive and out of character within the street scene
- The proposal will fail to engender a sense of place
- The proposal will adversely affect the character and appearance of the street scene
- The erratic roof design with upper floor windows above the eaves is detrimental to the street scene, at odds with the adjacent terrace
- The proposal would have a cramped, overbearing and incongruous appearance relative to its context
- Adverse impact upon the Conservation Area
- The wall to the rear should be 2m high and continuous in height along its length, stepped walls are not typical of the area
- The wall should have half round tops rather than flat coping stones
- Any gates should be full height and solid
- Render and brick should not be used
- This building will be prominent and in stark contrast to nearby properties
- Whilst the design is lovely it is not appropriate in this context

Overdevelopment of the site:

- We were told the height would not exceed the gutter line of the terraced row
- The existing Band Hall is obtrusive due to its size and the proposed building will be even bigger
- The comment that the development will take up 50% of the site is incorrect
- Trying to squeeze a quart into a pint pot!
- The building is too close to existing properties

14/00672/FUL (Continued)

Other:

- Loss of view
- Not opposed to the development of the site in general
- This site can only accommodate 3 or 4 units
- A continued community use of the site is preferable
- Loss of the community use should be carefully considered given national planning policy advice
- The consultation process has not been fair or adequate
- Concerns addressed early on with the applicants have not been acted on
- The proposal is contrary to local and national planning policy guidance
- The NPPF supports the development of previously developed land but notes that it should not be assumed that all of the curtilage of a property should be developed
- Although a sustainable location, there are 3 elements to sustainable development; economic, social and environmental and that positive improvements should be sought not only to the build, natural and historic environment but also to the quality of people's lives. Therefore this proposal does not constitute sustainable development.
- The properties will have no outside amenity space
- Concern over the siting of the bins

POLICIES:

Adopted Derbyshire Dales Local Plan (2005)

SF1: Development Within Settlement Framework Boundaries

SF5: Design And Appearance Of Development

H1: New Housing Development Within Settlement Framework Boundaries

H9: Design And Appearance Of New Housing

NBE21: Development Affecting A Conservation Area

TR1: Access Requirements And The Impact Of New Development

TR8: Parking Requirements For New Development

S12: Important Local Services And Facilities

National Planning Policy Framework and National Planning Policy Guidance

ISSUES:

The issues for consideration are: the principle of the development in this location, the design and appearance of the development and the impact upon the character and appearance of the conservation area, the impact upon residential amenity and highway safety and parking.

Principle:

The Draft Local Plan was considered at the Examination in Public (EIP) in July 2014. Following the first two days of the examination, the Inspector issued an interim report highlighting that the proposed housing numbers did not meet the Objectively Assessed Need and there had not been sufficient collaboration with other Local Authorities and therefore the Plan would be found to be unsound if it progressed. The early findings of the Inspector also noted that the Objectively Assessed Need was more likely to be in the region of at least 6,500. The Inspector advised that should the LPA continue with the EIP the Plan would be found to be unsound. In view of this the LPA withdrew the Draft Plan from examination.

In view of the Inspector's findings the LPA currently cannot demonstrate a 5 year housing land supply and therefore determination of this application should be in accordance with

14/00672/FUL (Continued)

paragraph 14 of the National Planning Policy Framework as the housing policies of the Adopted Derbyshire Dales Local Plan are considered out of date.

In this case the proposal is to build on previously developed land within the Town of Matlock. The development of this site in principle is in accordance with the Core Planning Principles of the National Planning Policy Framework (NPPF) in terms of its location close to services and facilities. Therefore the location of this land for development is acceptable.

Paragraph 14 of the NPPF notes that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework as a whole or specific policies on the Framework indicate development should be restricted. Therefore whilst the principle of development is accepted the other impacts of development should be carefully considered.

Design and appearance:

Significant pre-application discussion has taken place regarding the development of the site. The design put forward has taken into account the need to ensure the ridge height of the building is no higher than the adjacent terrace and the eaves height is kept as low as possible. The existing Band Room is approximately 2.8m lower than the ridge of the neighbouring terrace. The proposed building will be in line with the ridge height of that terraced row therefore 2.8 metres higher (approximately) than the existing building.

The bulk of the building has been broken up by using varying projections and ridge lines. The building reduces to the eastern end of the site with a single storey element providing a full stop for the site. The design details of the windows to the front elevation have been designed to ensure that lower ridge height using a modern interpretation of a traditional window pattern ensuring the vertical emphasis.

To the rear elevation a traditional approach would have resulted in a form of development which overlooked other dwellings and would harm their amenity. The modern approach to window design has been chosen to ensure that the development has minimal impact upon residential amenity. This modern design approach is considered to be appropriate to this location.

The high wall to the rear of the site has been altered to show a wall which follows the contour of the land and has a continual flow with tall solid gates providing private amenity space. The wall will ensure that the lane to the rear of the site retains its enclosed character and appropriately defines the public and private spaces.

The materials of the building should be of coursed stone with some detailing in an ashlar stone finish, the applicant is happy to comply with this. The walling to the rear of the site should have the appearance of a dry stone wall with half round coping stones traditional to Matlock. The windows shall be metal with a dark finish. The surfacing to the frontage of the site should clearly define the parking areas as distinct from the public highway and show where the pedestrian route into the building is. This will help to determine where the alignment of the original roadway is, bringing definition to the site boundary. All of these matters can be secured via condition.

Subject to conditions the proposal is considered to be acceptable in terms of its design and appearance and the removal of the existing building and its replacement with the proposed development is considered to be an enhancement of the Conservation area. The

14/00672/FUL (Continued)

proposal complies with Policies SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Residential amenity

Concern has been raised regarding the impact the development will have upon the privacy of the existing neighbouring properties. Through the pre-application discussion the need to ensure that the privacy of the neighbouring residents was not impacted upon to an unacceptable degree was the starting point of the design process. Whilst it is acknowledged that the development of flats on this site will be a significant change to the locality and will be at a higher level than some of the neighbouring properties to the east, south and west, it does not necessarily follow that there will be such an impact upon the amenities of those residents that refusal would be warranted.

The applicant has submitted a supporting document demonstrating how each window has been considered. The lower ground floor flats will be enclosed with high level walling to the rear which will ensure there will be no potential for overlooking from these properties.

The projecting bays with part obscured glazing will ensure that views from the flats are directed towards the distant views rather than looking down into neighbouring dwellings.

The large glazed element to the stair well is not considered to be of concern as this is a communal area not habitable space.

There are two elongated glazing sections facing east which will serve the habitable accommodation of the ground floor and first floor flats. The western most of these glazed elements will be screened by the projecting bays of this development and therefore will not cause significant overlooking. The eastern most of these elements will have oblique views over the garden area of no. 35. However, this minor amount of overlooking is not considered sufficient to refuse the proposal.

Conditions will be required to ensure that the windows to the rear are obscure glazed where necessary and a detailed submission showing the window openings is also required. Subject to these conditions the proposal is considered to be acceptable in terms of the impact upon residential amenity in accordance with Policies SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the NPPF.

Highway safety and parking:

It is acknowledged that on street parking within this locality is difficult and that ideally residents would like to have as much parking provision as possible. Parking requirements in areas that can be served by public transport are minimal and the highway authority who advised on these matters are satisfied that the amount of parking proposed is acceptable and would not be a matter that could be defended on appeal. The parking layout to the frontage of the site has been slightly amended to leave a gap between the two central cars for pedestrian access. It is considered that the parking provision is acceptable in accordance with local and national planning policy subject to conditions.

Other matters:

Whilst it has been noted in the objections that the consultation process has been inadequate the LPA has carried out the appropriate consultation exercise as required under legislation.

14/00672/FUL (Continued)

Policy S12 of the Adopted Derbyshire Dales Local Plan seeks to protect local services and facilities. In this case the building has not been in use for some years and the Band that formerly practised in the building now use other community facilities in the area. In view of this and the availability of other community building within Matlock the loss of the Band Room as a community facility is acceptable in accordance with Policy S12.

The storage of the bins within the premises is considered to be acceptable. The carry distance from the rear gates to the nearest road which is Wellington Street appears to be on the margins of the 25m man carry distance required and therefore a dwell area for bins may be required, this matter can be agreed via condition with the Highway Authority.

Conclusion:

Whilst the building will be a significant change to what is currently on site and the subsequent development is not intended to replicate the predominant local vernacular, it is considered that the overall design and appearance of the building is acceptable and will enhance the character and appearance of the Conservation Area. The proposal will lead to some impact upon the amenities of neighbouring residents, that impact is considered to be minimal and would not warrant refusal of the application. The parking provision is considered to be acceptable for the location. Therefore the proposed development is considered acceptable subject to conditions and meets the local and national planning policy requirements.

OFFICER RECOMMENDATION:

To grant planning permission subject to the following conditions:

1. Condition ST02a: time limit on full
2. Prior to the commencement of development the following details shall be agreed in writing by the Local Planning Authority:
 - A sample of stone to be used, both coursed stone and ashlar with details of where the stone work is proposed on the building, the method of construction including bed heights and lengths.
 - 1:10 or 1:20 Details and sections of the fenestration including finished colour and the recess to the windows
 - Details of the treatment of the obscure glazing
 - A sample of roofing material detailing its source
 - Details and samples of the surfacing materials
 - Samples and details of the boundary walling including a 2m sample panel to be inspected on site and details of the coping stone which should be a half round stone.
 - Details of all pipe work and guttering which should of a dark finish and metal construction and details of any utility boxes
 - Details of the gates to the rear wall and the finished treatment and colourWorks shall be completed in accordance with the agreed details
3. The obscure glazing agreed to the rear windows under condition 3 above shall be retained in perpetuity.
4. Prior to the commencement of development a scheme detailing window openings to the rear elevation of the building shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the agreed details.

14/00672/FUL (Continued)

5. 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, laid out and constructed in accordance with the detailed designs to be submitted in advanced 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.
6. Before any other operations are commenced (excluding condition 4 above), the existing access to Jackson road shall be modified in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.
7. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of resident's vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
8. The proposed car parking spaces shall be no steeper than 1 in 15 from the nearside highway boundary.
9. The premises, the subject of the application, shall not be occupied until an adequate bin storage/dwell area for use on refuse collection days has been provided as per revised application drawings clear of the public highway, within the site curtilage clear of all access and parking provision and retained thereafter free from any impediment to its designated use.
10. No caravans or other domestic paraphernalia shall be located, parking or stored within the designated parking area unless other expressly agreed in writing by the Local planning Authority.
11. Condition ST06: Amended Application Plans (remove the word 'solely')
1416-03/B Proposed Plans (revision B dated 17/11/14)
1416-04/C Proposed Elevations (revision C dated 19/11/14)
1416-05 Site Section and Elevation (dated 20.11.14)

Reasons:

1. Reasons: ST02a
2. To ensure an appropriate finished form of development suitable to the Conservation Area in accordance with Policies SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.
3. In the interests of residential amenity in accordance with Policies SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.
4. To protect the amenity of neighbouring residents in accordance with Policies SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.

14/00672/FUL (Continued)

5-10. In the interests of highway safety in accordance with Policies TR1 and TR8 of the Adopted Derbyshire Dales Local Plan

11. For the avoidance of doubt

Footnotes:

1. The Local Planning Authority have prior to and during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to design and the impact upon amenity.
2. Article 21 of the Town and Country Planning (General Development Procedure Order) 1995 provides for written confirmation to be obtained from a Local Planning Authority that a Condition or limitation attached to a grant of Planning Permission has been complied with.

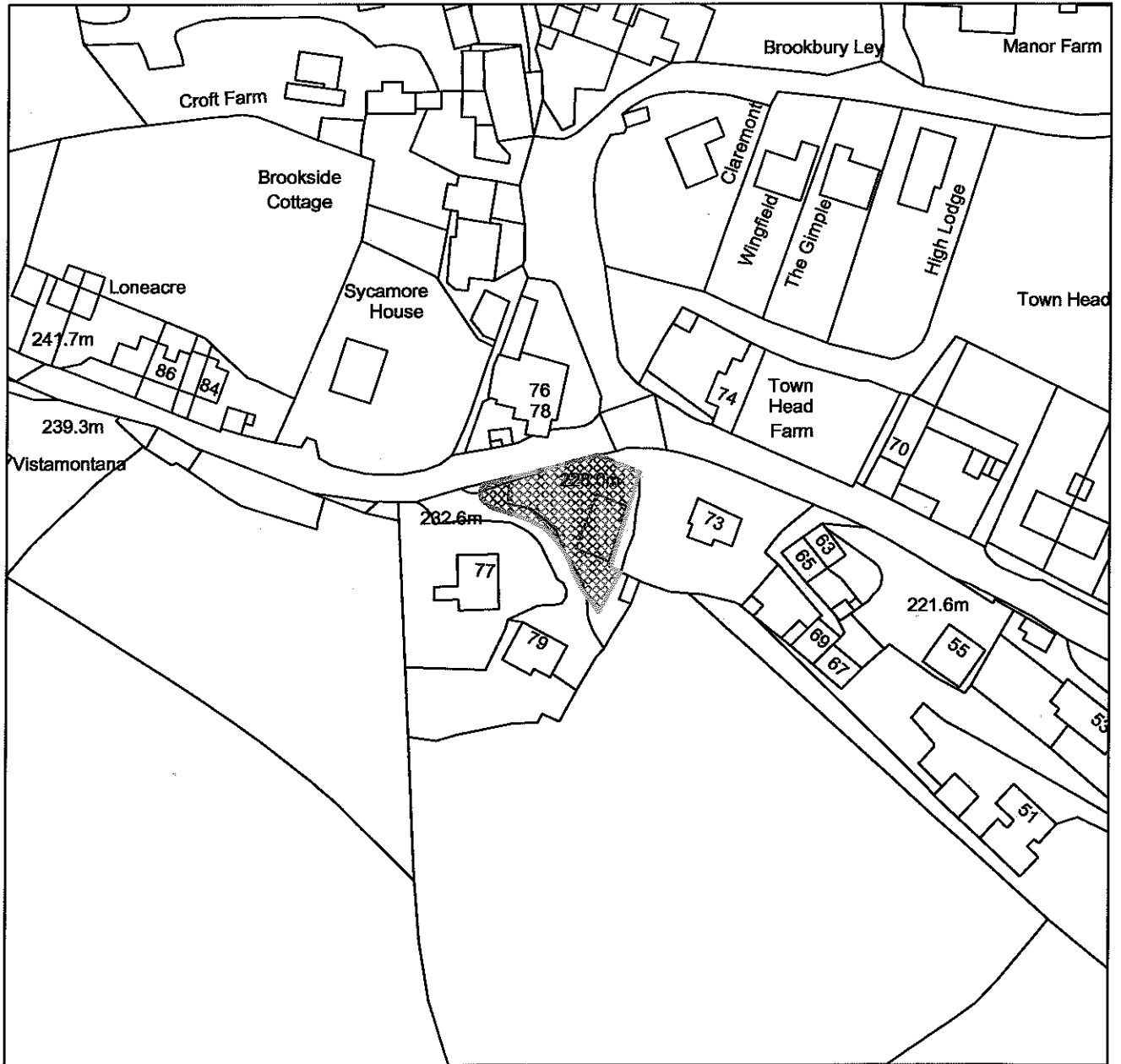
The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development 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 or £28 where the related permission was for extending or altering a dwelling house or other development in the curtilage of a dwelling house. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

3. Pursuant to Section 184 of the highway Act 1980 and Section 86(4) of the New Roads and Street Works 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.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud and 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. This decision notice relates to the following documents:
1416-01 Location & Block Plans (original submission)
1416-02 Existing Plans and Elevations (original submission)
1416-03/B Proposed Plans (revision B issued by email dated 17/11/14)
1416-04/C Proposed Elevations (revision C issued by email dated 19/11/14)
1416-05 Site Section and Elevation (dated 20/11/14)
Design and access statement received 08.10.14 and Overlooking Assessment received 12.11.14

BACK TO AGENDA

14/00636/FUL

75 Manor View, High Street, Bonsall



Derbyshire Dales DC

1:1,250

Date: 21/11/2014

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

**14/00636/FUL ERECTION OF FENCE AT MANOR VIEW, 75 HIGH STREET,
BONSALL FOR MT. TAYLOR.**

Parish Council: Bonsall
Application Type: FUL

Date of Receipt: 17th September 2014
Case Officer: Mr. A. T. Ecclestone

THE SITE AND SURROUNDINGS:

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

THE APPLICATION:

The proposal is for the erection of a 90cm high, close-boarded boundary fence on top of the current stone-built retaining wall on the northern boundary. It will extend to 13m in length.

RELEVANT HISTORY:

| | | |
|--------------|---|---------|
| 14/00146/FUL | Erection of fence. | Refused |
| 13/00636/FUL | Retention of gazebo. | Granted |
| 07/00759/FUL | Erection of 2 detached dwellings and associated access. | Granted |

CONSULTATIONS:

Local Highway Authority:
No objection.

Parish Council:
No objection.

Conservation Advisory Forum:

- Object. Queried whether the existing wall, with no coping or raised wall detail, was in accordance with the approved planning permission 07/00759/FUL (Conditions 6 and 7) which relate to hard landscaping / boundary treatments?
- The proposed fence will be wholly inappropriate and harmful to the character and appearance of the Conservation Area.
- Suggest that the existing stone wall should be raised in height or that a suitable coping treatment with horizontal 'estate' type metal railings be introduced. Formal, vertical railings were considered too polite for this location.

REPRESENTATIONS:

None received.

POLICIES:

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

14/00636/FUL (Continued)

National Planning Policy Framework (NPPF)

Chapter 7 Requiring good design

Chapter 12 Conserving and Enhancing the Historic Environment

Other:

Bonsall Village Design Statement

Bonsall Conservation Area Character Appraisal

ISSUES:

This is a resubmission following the earlier refusal of a scheme for a fence which was 1.2m in height and extended 20m. The main issues to assess are whether or not the current scheme has addressed the reasons why the previous scheme was rejected and to assess the impact that it will have on the character and appearance of this part of the Bonsall Conservation Area.

The previous reason for refusal was:

The appearance of a fence in this prominent position will be harmful to the character and appearance of this part of the Bonsall Conservation Area which is typified in terms of enclosure by robust boundary walling.

Following on from the refusal, discussions have taken place between Officers and the applicant in an attempt to find an amicable solution. The Officer preference would be for the current stone retaining wall to be raised in height. Unfortunately however, the applicant says that this cannot be achieved because the current retaining wall could not take the extra weight of additional walling above it.

Another suggestion was for a boundary hedge. A further suggestion was for the enclosure to be set further back within the site with soft landscaping which would eventually become established as a screen. However, this was also dismissed by the applicant because the ground was solid rock where no plants could be planted.

Although there are other fences in close proximity, this area is defined by the presence of stone walls and the application site is considered a prominent location where any boundary enclosure will have a significant impact on the streetscene and Conservation Area. The 2011 Conservation Area Character Appraisal cites inappropriate boundary treatments as negative factors which weaken the robust character provided by walls within the area (Bonsall Conservation Area Character Appraisal 2011, Chapter 8 - Negative / Neutral Factors, page 68).

Adjacent to this site is Sycamore House which is a Grade II Listed Building. It is considered that the extent and visual impact of the proposed fencing will, to some degree, have a harmful effect on the setting of this heritage asset.

The use of timber fencing on this roadside boundary will have a detrimental impact on this part of the Conservation Area and will neither conserve, nor enhance the Conservation Area.

14/00636/FUL (Continued)

Unfortunately therefore, notwithstanding the arguments put by the applicant, the current proposal is not considered to have overcome the previous reasons for refusal. Despite its reduced size, it would still be visible and prominent from public view and would be harmful to the character and appearance of this part of the Bonsall Conservation Area which is typified in terms of enclosure by robust boundary walling.

The harm caused by the proposed fence will bring it into conflict with the following Local Plan Policies.

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

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

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

In the context of the NPPF, the harm caused by the proposed fence is considered to be less than substantial, in which case, Paragraph 134 is relevant. This mentions that the harm should be weighed against the public benefits of the proposal. In this case, it is considered that there will be no public benefit. It is also considered that allowing such a prominent fence will make it more difficult to resist any similar proposals in the future. This would have the cumulative effect of diluting the historic character and appearance of this part of the Conservation Area.

Whilst it is unfortunate that a mutually acceptable solution has not been found, the Council has a duty to determine this particular application on its merits. The applicant, it is considered, has a preference for a fenced enclosure of the boundary. However, Officers still consider that alternatives exist that may involve more disruption, expense or a reduction in the parking area above the wall. Whilst the applicant may be resistant to these, ultimately, it is the long term impact of the fencing on the environment and in particular the impact on the character and appearance of the Conservation Area that is the primary planning consideration in this case. On that basis, for the reasons explained above, refusal is recommended.

OFFICER RECOMMENDATION:

Planning Permission be refused for the following reasons:

The appearance of a fence in this prominent position will be harmful to the character and appearance of this part of the Bonsall Conservation Area which is typified in terms of enclosure by robust boundary walling. As such, the proposal conflicts with Policies SF5 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) and

14/00636/FUL (Continued)

Chapter 12 of the National Planning Policy Framework (NPPF).

Note to applicant:

This Decision Notice relates to the following documents:

Drawings numbered 1, 2, 3 and 4, received by the Council on 29th September 2014.

Both prior to the submission of the application and during the consideration of it, the Local Planning Authority attempted to engage in a positive and proactive dialogue with the applicant. Unfortunately however, it was considered that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis, the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

BACK TO AGENDA

PLANNING APPEAL - PROGRESS REPORT

Report of the Director of Planning & Housing Services

| REFERENCE | SITE/DESCRIPTION | TYPE | DECISION/COMMENT |
|---|--|------|---|
| ENF/13/00072 | The Three Stags, Darley Dale | WR | Appeal being processed |
| 13/00569/FUL | 27 Greenhill, Wirksworth | WR | Appeal dismissed – copy of decision letter attached |
| 13/00687/CLPUD | Rear of 11A Little Bolehill, Bolehill | WR | Appeal dismissed – copy of decision letter attached |
| ENF/13/00083 13/00594/FUL (linked together) | 24 Chapel Hill, Cromford | PI | Appeal being processed |
| 14/00379/PDA | Barns 1 and 2 Home Farm, Whitelea Lane, Tansley and Barn 3 Home Farm, Whitelea Lane, Tansley | WR | Appeal being processed |
| 14/00097/OUT | Tansley House Gardens, Tansley | IH | Appeal being processed |
| 14/00102/OUT | 106 Northwood Lane, Darley Dale | IH | Appeal being processed |
| 14/00089/OUT | Asker Lane, Matlock | PI | Appeal being processed |
| 14/00182/FUL | 25 Cavendish Road, Matlock | WR | Appeal being processed |
| 14/00510/FUL | 25 Cavendish Road, Matlock | WR | Appeal being processed |

WR - Written Representations

IH - Informal Hearing

LI - Local Inquiry

PI – Public Inquiry

HH – Householder

OFFICER RECOMMENDATION:

That the report be noted.

BACK TO AGENDA



Appeal Decision

Site visit made on 1 October 2014

by **R C Shrimplin MA(Cantab) DipArch RIBA FRTPi FCI Arb MCIL**

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

Decision date: 27 October 2014

Appeal Reference: APP/P1045/A/14/2214974

Land at 27 Green Hill, Wirksworth, Derbyshire DE4 4EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs A Grattidge against the decision of the Derbyshire Dales District Council.
 - The application (reference 13/00569/FUL, dated 5 August 2013) was refused by notice dated 8 November 2013.
 - The development proposed is described in the application form as the "demolition of a derelict brick outbuilding" and the "construction of a new 3 bed family home".
-

Decision

1. The Appeal is dismissed.

Main issue

2. The main issue to be determined in this appeal is the effect of the proposed development on the setting of the appeal site, in the Wirksworth Conservation Area.

Reasons

3. Wirksworth is an attractive town in a dramatic landscape. The appeal site is located in a steeply sloping part of the town that has evolved over the centuries in conjunction with quarrying operations that have created an unusual townscape, generated by the sharp changes in level and the rock faces that characterise this part of the settlement. Indeed, the area between Green Hill and The Dale is especially complex in character, with dwellings of different sizes among a variety of open spaces, all linked together by a network of steep, narrow roads and winding footpaths. The older part of the town, together with a substantial area of the adjoining countryside, falls within the Wirksworth Conservation Area.
 4. The area is characterised by its closely built up nature and by the steepness and narrowness of the streets, all of which adds to its charm. At the same time, however, the area is inconvenient for access by cars and parking is obviously difficult, in general.
-

5. Much of the appeal site itself is relatively flat, forming an established though neglected garden that is subdivided by a wall which also forms the rear wall of an outbuilding that stands on the property. The garden is not unattractive, even though it has become overgrown, but the outbuilding is undistinguished and is, in any case, in a very poor state. The appeal site adjoins a high rock face on its northern boundary, topped by a low wall and a pedestrian path.
6. The site for the proposed new house is reached by a footpath that also serves numbers 27 and 28 Green Hill, adjoining the appeal site, as well as other houses. Indeed, the land has been associated with number 28 though, visually, the north-western part of the plot is more closely related to Babington House, a much larger and grander house with a direct vehicular access to Green Hill. Nevertheless, the plot is distinct from these neighbouring buildings and does not form part of their historic curtilages.
7. Included within the appeal site, there is a small parking area adjacent to the access footpath. This was vacant at the time of the site visit but has evidently been used by local residents in the recent past.
8. Many of the buildings in the area are architecturally pleasing and historic in appearance. Babington House is especially important, dating from about 1630, with significant historic associations, from the Elizabethan period. It is listed (Grade II*) as a building of special architectural or historic interest.
9. Provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant planning permission for development that would affect a conservation area. In such cases, decision makers are required to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas affected by development proposals. Other provisions in the Act impose specific obligations on those considering whether to grant planning permission for development that would affect the setting of a listed building. In those cases, it is necessary to have special regard to the desirability of preserving the setting of the listed building.
10. That statutory framework is reinforced by the 'National Planning Policy Framework', especially at Section 12, which emphasises the importance of conserving and enhancing the historic environment, though it also points out the desirability of putting a heritage asset to its "optimum viable use".
11. Policies in the Development Plan and the emerging Development Plan also reinforce the underlying principles that are established in the primary legislation. In particular, the District Council's adopted Derbyshire Dales Local Plan and their emerging new Local Plan contain policies that emphasise the importance of conserving and enhancing "heritage assets" such as conservation areas and listed buildings.
12. It must be acknowledged, of course, that both local and national policies also stress the need to concentrate new development in existing settlements and on previously developed land ("brownfield" land), in the interests of sustainability. The importance of protecting the heritage is not to be underestimated, nevertheless.

13. The appeal scheme would involve the demolition of the existing outbuilding on the site and the construction of a new dwelling in approximately the same location (though on a larger footprint, with a forward projection). The "rear" part of the site would be laid out as a private garden for the new house, while a small front garden would also be provided, with pedestrian access from the existing path. The new property would have the benefit of the existing parking area adjacent to Green Hill.
14. The proposed new house would be subdued in character, reflecting the need for privacy (since it would be overlooked from the north). The style and materials to be used in the new building would be in keeping with those of the surrounding area and, in architectural terms, the design would not be inharmonious in its setting.
15. Inevitably, however, the new building would create a significant new element in the Conservation Area. The existing outbuilding is small in scale and although it is not attractive it has only a very limited impact on the openness of the garden areas which it effectively serves. The more open parts of the Conservation Area, by contrast to its closely built up street frontages, are an important characteristic of the setting, while the varied pattern of development is fundamental to the visual identity of the locality.
16. In consequence, the introduction of a new house into this part of the Conservation Area would significantly erode its character and appearance and would cause real harm to the heritage asset. Although it would have less of a direct impact on the immediate setting of Babington House, it would thus detract from the setting of the listed building in more general terms (bearing in mind that the "setting" of a listed building is not restricted to its own curtilage or to land within its boundaries).
17. In short, I have concluded that the scheme before me would conflict with the aim of protecting the historic environment which is established in primary legislation, set out in Section 12 of the 'National Planning Policy Framework' and reinforced by policies in the Development Plan. Because of the harm that would be done to the Conservation Area, the project would be unacceptable in planning terms and ought not to be allowed.
18. In the representations, a parking issue has also been identified. Though the appeal site would be provided with its own parking facility, the existing parking area would cease to be available for other potential users and pressure on parking in the area would thus be increased, in practice. Hence, this objection reinforces the fundamental objection to the proposed development, based upon the effect of the proposed development on the setting in the Wirksworth Conservation Area.
19. Evidently, the appeal site lies within an established urban area, which is "sustainable" in planning terms. The contribution that the appeal scheme would make to economic activity and the attractive additional dwelling that would be created both weigh in favour of the appeal. Nevertheless, I am convinced that the harm done to the historic setting in the Wirksworth Conservation Area outweighs the benefits of the project.

20. Hence, I have concluded that the scheme before me ought not to be allowed and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C Shrimplin

INSPECTOR

BACK TO AGENDA



Appeal Decision

Site visit made on 6 October 2014

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 31 October 2014

Appeal Ref: APP/P1045/X/14/2215330

Rear of 11A, Little Bolehill, Bolehill, Matlock DE4 4GR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr D Sheldon against Derbyshire Dales District Council.
 - The application (Ref. 13/00687) is dated 19 September 2013.
 - The application was made under section 192(1) (a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is change of use of agricultural building to guest house.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Reasons

3. The main issue to consider is whether the Council's deemed refusal to issue an LDC is well-founded.
4. The proposal comprises the change of use of an agricultural building into a guest house, which is a use classified under Class C1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended ('the UCO'). The facility would be marketed as providing basic serviced lodgings aimed at walkers and cyclists who visit this part of the Derbyshire Dales, and offer paying guests short-term accommodation with breakfast.
5. In seeking a LDC, the onus is firmly upon the appellant to show that the proposed use would have been lawful at the time of the application on the balance of probabilities. To this end, Mr Sheldon seeks to establish that a material change of use of the appeal building to a guest house would, at that time, have been lawful by virtue of permitted development (PD) rights set out in Class M, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended ('the GPDO'). Class M categorises certain changes of use as PD,

amongst other things, of an agricultural building to a flexible use falling within, amongst other Classes, Class C1 (hotels) of the UCO¹.

6. Class M is subject to certain conditions and limitations including M.3 (a) (i) to (ii). It states before changing the use of the site the developer shall, where the cumulative floor space of the building does not exceed 150 square metres, provide the date the site will begin to be used for any of the flexible uses, the nature of the use or uses and a plan indicating the site and which buildings have changed use to the local planning authority. The appeal building's floor space does not exceed 150 sqm.
7. Pursuant to the terms of paragraph M.3, I understand that the required information was submitted to the Council. However, on 2 June 2013 they wrote to the appellant's agent stating that the change of use would not be PD. They consider that the building would be unsuitable to use as a guest house. On behalf of the appellant, the agent's main argument is that the building would be converted to provide viable facilities for day-to-day living irrespective of its size. The argument is that the guest house would be serviced by a resident manager or proprietor, and to permanently live onsite would be a matter of personal choice. The contention is that the floor space would be adequate for four adults or a small family to use as short-term lodgings.
8. Usually, a guest house is characterised as occupied by a proprietor who lets out rooms to paying guests on a short-term basis. The proprietor may live inside the property in private quarters, or share basic facilities with guests or even live close by to provide serviced accommodation. Normally, such an activity can be ancillary to the use of a dwelling house but that is not essential in itself. Large or small properties can be used as guest houses, but they should be capable of practically providing reasonable living accommodation. Contrary to the planning agent's view, I consider that the size of a building proposed to be used as a guest house is an important consideration.
9. In this case, the guest house is shown on the submitted drawings. The plans show a kitchen, breakfast/reception room and toilet at ground floor level as well as a manager's bedsit. At first floor level, there would be two bedrooms and a bathroom. One of the bedrooms would have two single beds and the other would have a bunk bed. It appears that the property would be able to provide necessary facilities for independent cooking, washing and sleeping. Nonetheless, it does not automatically follow that it would be capable of being used as a guest house.
10. I do not make any subjective judgement on the adequacy of the room sizes. However, the building has a floor area of some 24 sqm and by adding the hayloft it would increase to 48 sqm. The evidence presented does not sufficiently show, in my opinion, as to how the guest house would practically operate or function given the limited size of the building. For instance, the guest house would not provide private quarters for the manager or proprietor, yet the appellant states that he might live onsite when it is occupied by guests.
11. The plans identify a manager's bedsit but it would be about 3m x 2m. I doubt very much that this type of designated space would be used practically given its size. Additionally, its layout would not provide self-contained quarters. In my view,

¹ The Town and Country Planning (Use Classes) Order 1987 as amended ('the UCO'): 'Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided'.

sharing such cramped accommodation with a manager or proprietor is unlikely to be appealing or acceptable to guests.

12. Furthermore, the appellant does not sufficiently show how, if the manager or proprietor is not resident, the premises would function as a Class C1 guest house. He does not show how the premises would be distinguishable from a Class C3 dwellinghouse use.
13. As a matter of fact and degree, I find that it would not be possible for the accommodation proposed to function in practical terms as a guest house falling within Class C1 of the UCO. The provisions of Class M do not apply. Therefore, on the balance of probabilities, the use proposed would not have been lawful at the time of the LDC application.

Conclusion

14. For the reasons given above, and having considered all other matters, I conclude the Council's deemed refusal is well-founded and the appeal should fail. I will exercise the powers transferred to me in section 195 (3) of the Act.

A U Ghafoor

INSPECTOR

BACK TO AGENDA

Costs Decision

Site visit made on 6 October 2014

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 31 October 2014

Costs application in relation to Appeal Ref: APP/P1045/X/14/2215330 Rear of 11A, Little Bolehill, Bolehill, Matlock DE4 4GR

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Sheldon for a full award of costs against Derbyshire Dales District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a certificate of lawful use or development ('the LDC') for change of use of agricultural building to guest house.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The National Planning Practice Guidance ('the PPG') advises that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. This could be the expense of the entire appeal or only for part of the process. Applications may relate to events before the appeal was brought, but costs that are unrelated to the appeal or other proceeding are ineligible. Awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission or, as the case is here, an LDC.
3. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the application can be taken into account in the consideration of whether or not costs should be awarded. Awards against a local planning authority ('the LPA') may be either procedural, relating to the appeal process or substantive, relating to the merits of the appeal.
4. The applicant submitted an LDC to the respondent Council for its determination as to whether or not the proposed use of the appeal building would be permitted by virtue of Class M of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted development) Order 1995 as amended ('the GPDO'). The respondent failed to determine the application within time limits.
5. The PPG advises that if it is clear to the LPA that it will fail to determine an application within the time limits, it should give the applicant a proper explanation. In this case, it appears that there was some communication between the appeal parties. This mainly related to the extent of the applicant's

landholding because there were some discrepancies in the paperwork. It seems to me that this created a delay in the process.

6. I am not persuaded that the respondent's failure to issue a decision amounts to unreasonable behaviour in this particular case. It is apparent that the applicant's planning agent was made aware of the need to submit additional information regarding the landholding so that the confusion could be cleared up. This evidence was necessary to ensure that the relevant conditions and limitations of Class M of the GPDO were satisfied. For example, the building was solely used for agricultural purposes as part of an established agricultural unit.
7. In the absence of a formal decision on the LDC application, the applicant exercised his right of appeal against the non-determination. However, while I acknowledge the applicant was disappointed with the delay, the evidence does not show that the respondent's handling of the application was an indication of unreasonable behaviour.
8. My decision on the LDC explains the reasons why I have found in favour of the respondent. This is mainly down to the failure of the applicant's own evidence to show how the appeal building would be practically occupied and function as a guest house. On the particular circumstances of this case, I have found that the proposed change of use would not be permitted by virtue of Class M of the GPDO.
9. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is unjustified.

A U Ghafoor

INSPECTOR

BACK TO AGENDA