To: All Councillors

As a Member or Substitute of the Planning Committee, please treat this as your summons to attend a meeting on Tuesday 24 May 2016 at 6.00pm the Elim Pentecostal Church, Waterside Park, Waterside Road, Ashbourne DE6 1DG

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS

1. APOLOGIES/SUBSTITUTES

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

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

Planning Committee – 12 April 2016

3. INTERESTS

Councillors are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those Interests are matters that relate to money or that which can be valued in money, affecting the Councillor, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at that time.

4. APPLICATIONS FOR DETERMINATION

Please note that for the following items, references to financial, legal and environmental considerations and equal opportunities and disability issues will be embodied within the text of the report, where applicable.
PUBLIC PARTICIPATION

To provide members of the public **WHO HAVE GIVEN PRIOR NOTICE** (by no later than 12 Noon on the working day prior to the meeting) with the opportunity to express views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed. Details of the Council’s Scheme are reproduced overleaf. To register to speak on-line, please click here [www.derbyshiredales.gov.uk/attendameeting](http://www.derbyshiredales.gov.uk/attendameeting). Alternatively email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk) or telephone 01629 761133.

### 4.1 APPLICATION NO. 16/00096/FUL (Site Visit)

Residential development of 5 dwellings comprising 3 houses and 2 flats with associated access and parking at Land adjacent Chestnut Farm, Uppertown, Bonsall.

### 4.2 APPLICATION NO. 15/00060/OUT (Site Visit)

Residential development of up to 35 dwellings with associated access and open space at Land off Lathkill Drive, Ashbourne.

### 4.3 APPLICATION NO. 15/00316/OUT (Site Visit)

Demolition of public house and erection of 4 no. dwellings (outline) at The Yeaveley Arms, Leapley Lane, Yeaveley.

### 4.4 APPLICATION NO. 16/00099/FUL (Site Visit)

Erection of 9 no. dwellings, new community hall, provision of multi-use games area and modification to access at Land adjoining Marston Montgomery Primary School, Thurvaston Road, Marston Montgomery.

### 4.5 APPLICATION NO. 16/00144/S106D

Discharge of S106 Planning Obligation dated 6th August 2013 to remove requirement to pay Affordable Housing Contribution at The Miners Cottage, Mining Lane, Carsington.

### 4.6 APPLICATION NO. 16/00168/FUL

Formation of new link road at Ashbourne Airfield, A52, Ashbourne, Derbyshire DE6 1LY.

### 4.7 INFORMATION ON ACTIVE AND CLOSED ENFORCEMENT INVESTIGATIONS.

To consider a status report on appeals made to the Planning Inspectorate.

Page No.
Members of the Committee
Councillors Garry Purdy (Chairman), Tony Millward BEM (Vice Chairman),
Jason Atkin, Sue Burfoot, Sue Bull, Albert Catt, Tom Donnelly, Chris Furness, Graham Elliott,
Richard FitzHerbert, Neil Horton, Jean Monks, Tony Morley, Mike Ratcliffe, Lewis Rose OBE,
Peter Slack and Jo Wild.

Substitute Members
Deborah Botham, Jennifer Bower, Richard Bright, Martin Burfoot, Phil Chell, Ann Elliott, Helen
Froggatt, Alyson Hill, Angus Jenkins, Vicky Massey, Joyce Pawley, Mark Salt, Andrew Shirley,
Andrew Statham, Jacquie Stevens and John Tibenham.

PUBLIC PARTICIPATION
Members of the public may make a statement, petition or ask questions relating to planning applications
or other agenda items in the non-exempt section of an agenda at meetings of the Planning Committee.
The following procedure applies.

a) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised
by the Committee Chairman (in consultation) in advance of the meeting. On line information points
will make that clear in advance of registration to speak.

b) Anyone wishing to make representations at a meeting must notify the Committee Section before
Midday on the working day prior to the relevant meeting. At this time they will be asked to indicate
to which item of business their representation relates, whether they are supporting or opposing the
proposal and whether they are representing a town or parish council, a local resident or interested
party.

c) Those who indicate that they wish to make representations will be advised of the time that they
need to arrive at the meeting venue so that the Committee Clerk can organise the representations
and explain the procedure.

d) Where more than 2 people are making similar representations, the Committee Administrator will
seek to minimise duplication, for instance, by establishing if those present are willing to nominate a
single spokesperson or otherwise co-operate in the presentation of their representations.

e) Representations will only be allowed in respect of applications or items which are scheduled for
debate at the relevant Committee meeting,

f) Those making representations will be invited to do so in the following order, after the case officer
has introduced any new information received following publication of the agenda and immediately
before the relevant item of business is discussed. The following time limits will apply:

<table>
<thead>
<tr>
<th>Role</th>
<th>Time Limit</th>
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<tbody>
<tr>
<td>Town and Parish Councils</td>
<td>3 minutes</td>
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<tr>
<td>Objectors</td>
<td>3 minutes</td>
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<tr>
<td>Ward Members</td>
<td>5 minutes</td>
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<tr>
<td>Supporters</td>
<td>3 minutes</td>
</tr>
<tr>
<td>Agent or Applicant</td>
<td>5 minutes</td>
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</tbody>
</table>

g) After the presentation it will be for the Chairman to decide whether any points need further
elaboration or whether any questions which have been raised need to be dealt with by Officers

j) The relevant Committee Chairman shall exercise discretion during the meeting to rule out
immediately any comments by participants that are not directed to genuine planning
considerations.
SITE VISITS
Members will leave the Elim Church, Ashbourne at **12.55pm prompt** for the following site visits:

1.25pm  **APPLICATION NO. 16/00096/FUL**  
**LAND AT CHESTNUT FARM, BONSALL.**
At request of Officers to enable Members to fully appreciate the impact of the development upon the character and appearance of the Bonsall Conservation Area.

2.15pm  **APPLICATION NO. 15/00060/OUT**  
**LAND OFF LATHKILL DRIVE, ASHBOURNE.**
At request of Officers to fully appreciate the site and context.

2.45pm  **APPLICATION NO. 15/00316/OUT**  
**THE YEAVELEY ARMS, LEAPLEY LANE, YEAVELEY.**
At request of Officers to allow Members to fully appreciate the site and context.

3.10pm  **APPLICATION NO. 16/00099/FUL**  
**LAND ADJOINING MARSTON MONTGOMERY PRIMARY SCHOOL, MARSTON MONTGOMERY.**
At request of Officers to allow Members to fully appreciate the site and context.

3.40pm  RETURN TO ELIM PENTECOSTAL CHURCH ASHBOURNE

COMMITTEE SITE MEETING PROCEDURE
The purpose of the site meeting is to enable the Committee Members to appraise the application site. The site visit is not a public meeting. No new drawings, letters of representation or other documents may be introduced at the site meeting. The procedure will be as follows:

1. A coach carrying Members of the Committee and a Planning Officer will arrive at the site as close as possible to the given time and Members will alight (weather permitting)
2. A representative of the Town/Parish Council and the applicant (or representative can attend.
3. The Chairman will ascertain who is present and address them to explain the purpose of the meeting and sequence of events.
4. The Planning Officer will give the reason for the site visit and point out site features.
5. Those present will be allowed to point out site features.
6. Those present will be allowed to give factual responses to questions from Members on site features.

7. The site meeting will be made with all those attending remaining together as a single group at all times.

8. The Chairman will terminate the meeting and Members will depart.

9. All persons attending are requested to refrain from smoking during site visits.
### Planning Committee 24th May 2016

**Agenda Item 4.1**

<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
<th>16/0096/FUL</th>
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<tbody>
<tr>
<td>SITE ADDRESS:</td>
<td>CHESTNUT FARM, UPPERTOWN, BONSALL</td>
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<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>RESIDENTIAL DEVELOPMENT OF 5 DWELLINGS COMPRISING 3 HOUSES AND 2 FLATS WITH ASSOCIATED ACCESS AND PARKING</td>
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<tr>
<td>CASE OFFICER</td>
<td>Gareth Griffiths</td>
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<tr>
<td>APPLICANT</td>
<td>IAN CLYDE – DALES HOUSING</td>
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<tr>
<td>PARISH</td>
<td>BONSALL</td>
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<tr>
<td>AGENT</td>
<td>PELHAM ARCHITECTS</td>
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<tr>
<td>WARD MEMBER(S)</td>
<td>Councillor J. Pawley, Councillor G. Purdy</td>
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<td>DETERMINATION TARGET</td>
<td>8th April 2016</td>
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<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>Level of unresolved public objection</td>
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<tr>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>At request of Ward Member to appreciate the relationship of the site to the character and appearance of the Bonsall Conservation Area</td>
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### MATERIAL PLANNING ISSUES

- Background
- Policy
- Impact on the Character and Appearance of the Bonsall Conservation Area
- Design and Appearance
- Scale and Massing
- Amenity Issues
- Highway Matters
- Archaeology
- Ecology
- Impact on Community

### RECOMMENDATION

Approval
Land adjacent Chestnut Farm, Upperton Lane, Bonsall
1. THE SITE AND SURROUNDINGS

1.1 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.

1.2 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.

1.3 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 an open space at the heart of the Uppertown. 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.
2. DETAILS OF THE APPLICATION

2.1 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.

2.2 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.

2.3 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.

2.4 With respect to the fronting 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.

2.5 A fundamental element of the application is the justification for the development and how its effects have been appraised in the impact on the character and appearance of the Conservation Area. The applicant has submitted a Heritage Statement to appraise the site and its contribution to the Conservation Area. This notes that the impact of the development on the Bonsall Conservation Area would arise from the loss of the existing open space and the impact of the development itself. It is recognised that the field is at an important road junction and that this contributes to the ‘aesthetic’ and ‘illustrative’ value of the Uppertown character area.

2.6 The Heritage Statement advises that the ‘aesthetic’ value of the site derives from the field, which is mainly grass, and from where this can be appreciated from the public viewpoint, which is considered limited by the site being on a raised level. This is detailed in photographs of the site from Uppertown Lane, Moor Lane, Bell Lane and Bankside submitted with the Heritage Statement. In this respect, it is considered in the Heritage Statement that the lack of visibility of the field means that this ‘aesthetic’ value is limited. In addition, it is considered that any ‘aesthetic’ value of the field is rendered insignificant by the magnificent views of the surrounding open countryside readily visible from most parts of Uppertown. However, it is also recognised in the Statement that the fields ‘illustrative’ value derives from its open nature, which can be perceived even when the field is concealed by level differences to the public highways.

2.7 The Heritage Statement also advises that the presence of new dwellings at the main junction, in the heart of the built up settlement, would not introduce a discordant feature into the character area and would not harm, or fail to preserve, the Conservation Area. It is the view that the impact of developing the site would be to slightly decrease the open feel of the character area and, in such a hamlet of relatively few houses on a high ridge commanding views of the highly attractive open countryside, such a loss is considered by this in the Heritage Statement to be very minor.

2.8 In terms of the appearance of the buildings, the Heritage Statement advises that these would use traditional forms, massing and materials which would enhance the Conservation Area which currently has untraditional elements such as upvc windows and concrete
roofing. The proposed dwellings closest to Uppertown Lane are double fronted and Plot 3, in part, has a gable fronting the road; these details are considered to be consistent with traditional built form in the Conservation Area.

2.9 The applicant’s heritage consultant recognises the realignment of the boundary wall to Uppertown Lane to form the access visibility splay but considers this would not have a negative impact. The well feature is proposed to be retained and therefore the principal elements of loss are the open space and part of the retaining wall.

2.10 The Heritage Statement identifies that the roof ridges of the proposed dwellinghouses would appear higher than the existing dwellings but with quality materials, stepping ridgeline and well-proportioned chimney stacks will enhance the roofscape. Given the intended high quality of design and materials, the proposed development is considered by the applicant’s heritage consultant to have a positive rather than a negative impact.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Derbyshire Dales Local Plan (DDLP)
SF4 Development In The Countryside
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
H4: Housing Development Outside Settlement Framework Boundaries
H9: Design And Appearance Of New Housing
H13: Affordable Housing Exceptional Sites In Rural Areas
NBE4: Protecting Features Or Areas Of Importance To Wild Flora And Fauna
NBE5: Development Affecting Species Protected by Law
NBE6: Trees And Woodlands
NBE7: Features Important In The Landscape
NBE8: Landscape Character
NBE12: Foul Sewage
NBE21: Development Affecting A Conservation Area
NBE24: Archaeological Sites And Heritage Features
TR1: Access Requirements And The Impact Of New Development
TR8: Parking Requirements For New Development

Government Policy
3.2 National Planning Policy Framework

National Planning Practice Guidance

Other Relevant Guidance / Legislation
3.3 Town and Country Planning Act 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

Affordable Housing: Derbyshire Dales District Council Supplementary Planning Guidance Adopted July 2006

Bonsall Conservation Area Character Appraisal (2011)

Peak District National Park Authority – Bonsall Conservation Area Appraisal (2011)

Bonsall Village Design Statement
4. RELEVANT PLANNING HISTORY

14/00398/FUL Residential development of 5 dwellings comprising 3 houses and 2 flats with associated access and parking – Withdrawn further to Judicial Review proceedings.

5. CONSULTATION RESPONSES

Parish Council
5.1 - will change the character of the Conservation Area
- vehicle access is inadequate
- the height of the buildings is inappropriate
- the ‘close’ development is out of character with the area as the houses do not face the road
- proposed materials not in keeping with the area.

Derbyshire County Council (Land Drainage)
5.2 - comments with regards to sustainable drainage systems (SuDS)
- notes to applicant with respect to proximity to watercourses, groundwater flood risk and SuDS maintenance.

Derbyshire County Council (Highways)
5.3 - no objections subject to conditions as requested for planning application 14/00398/FUL.

Historic England
5.4 - application should be determined in accordance with national and local policy guidance.

Peak District National Park Authority
5.5 - site is immediately north of the Peak District National Park boundary and the National Park’s Bonsall Conservation Area
- as the site is at a much higher level than the ground to the south, development of this space will affect views in and out of the National Park and the part of the Conservation Area in the National Park
- one of two statutory purposes of a National Park is to conserve and enhance the natural beauty, wildlife and cultural heritage of the area

Derbyshire County Council (Development Control Archaeologist)
5.6 - desk based archaeological appraisal has identified evidence of stone-getting within the site and suggests its exclusion from the open field is likely to be a result of this stony character
- unlikely that the site functioned as a croft associated with medieval settlement and therefore recommend no need for investigation of below ground archaeology
- contains earthwork bank at northern edge of probable medieval date and likely to have formed a boundary between the medieval open field to the north and the uncultivated field to the south and forms boundary of the Conservation Area
- the bank is of local significance only but due to its medieval date and function makes a contribution to the significance of the Conservation Area
- unclear from the application if this feature will be impacted as part of the proposals
- whilst heritage statement states there will be no impact, the site layout plan suggests the bank will be impacted by the drystone walling
- applicant should provide further information to establish the proposals in relation to the bank and the layout amended if necessary to conserve this feature and allow it to be read in the landscape.
Conservation Advisory Forum

5.7 - noted previous comments on the development of this site from July 2014 as follows:
   o were appraised of the comments regarding the site in the Adopted Bonsall Conservation Area Appraisal (2011)
   o considered that 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.
   o did not consider the proposed layout to be appropriate - was not ‘organic’ and needed to relate more appropriately to its rural context.
   o proposed development did not integrate with the identified ‘grain’ of the conservation area.
   o considered that the design of development proposed was an inappropriate ‘pastiche’ and a more contemporary scheme should be explored
   o overall, considered that any proposed development on this site should reflect and relate to the context of the Bonsall Conservation Area.

   - noted that the proposed layout of the current application and the house designs/materials/details etc. were identical to that of 2014 and their comments on these particular issues, made in 2014, remain pertinent

   - discussed the scheme based on the current application submission and the additional information and of the view that the proposed development of this site would result in substantial harm, in terms of heritage and conservation issues, being contrary to the desirability of preserving or enhancing the character or appearance of the Conservation Area

   - noted that if development were permitted on this site then their comments (of July 2014) relating to layout and design should be taken into consideration.

Design and Conservation Officer (Derbyshire Dales)

5.8 - Conservation Area Appraisal identifies land as an extending finger of green space which forms the interface of natural and built environment and helps to define the rural character of this part of the Conservation Area

   - site has evolved around a cross-road and cottages are relatively clustered and yet retain the linearity of the lanes

   - Appraisal cites that where infill is proposed this should follow the grain of traditional development patterns of the village

   - built structures should also incorporate the correct traditional building materials, designs and details for the homogeneity of the character of the village to continue

   - an assessment as to the appropriateness of developing this particular site would need to pay special attention to the general duty of the desirability of preserving or enhancing the character and appearance of the Conservation Area

   - the NPPF directs that account should be taken of the desirability of sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness

   - it is considered that development of the site would result in harm to the current character and appearance of this part of the Conservation Area

   - in assessing that harm, considerable importance and weight should be given to the conservation and enhancement of the area in conducting an overall assessment of the application proposals.

Landscape Design Officer (Derbyshire Dales)

5.9 - site is important in terms of landscape character

   - only open space in an area where development is, of necessity, quite constricted

   - represents a ‘dovetailing’ of the countryside with the built environment where agriculture and livestock are at the centre of the community
- provides the setting for historic and important local features such as the well and post box - development of the site is likely to diminish the importance of it in these respects and have an adverse impact on the local landscape character
- development of the highest parts of the site will overlook existing properties and the central area to an extent that could be overbearing and is likely to have an adverse impact on local amenity.

Derbyshire Wildlife Trust
5.10 - do not consider the application is accompanied by sufficient information to fully understand the level of impact on biodiversity and how these impacts will be avoided, minimised, mitigated and, if necessary, compensated
- insufficient information to demonstrate the presence or otherwise of protected species and the extent they may be affected by the proposed development and therefore the LPA is unable to discharge its duties in respect of regulation 9 (5) of the Habitats Regulations
- request updated ecological survey work prior to determination of the application
- recommend, as a minimum, an extended phase 1 habitat survey (including an assessment of ponds) undertaken at appropriate time of the year (April-September)
- the impacts of the proposed development should be identified within an ecological survey report
- details of appropriate mitigation, compensation and enhancement measures should be clearly set out so there is no net loss of biodiversity and, ideally, a gain is achieved.

Head Of Housing (Derbyshire Dales)
5.11 - there continues to be an unmet affordable housing need in Bonsall, which is confirmed by Home-Options, the District Council’s Choice Based Lettings Scheme
- there are currently 12 households with a strong local connection in need of affordable housing in Bonsall
- the proposed 5 new homes would be owned and managed by Dales Housing
- they are for people with a strong local connection to Bonsall or an adjoining parish
- a Local Lettings Policy will be used to ensure that priority is given to Bonsall and its smaller adjoining parishes
- all affordable homes in the District are allocated through Home-Options
- the proposed scheme of 5 affordable homes for local people in Bonsall is a top priority for the Community Housing Team, with the District Council having allocated £100,000 capital funding for this scheme
- the District Council will be looking to secure government funding for the scheme.

6. REPRESENTATIONS RECEIVED

6.1 A total of 34 representations have been received opposing the application. A summary of the representations is outlined below:

- Policy
  - Bonsall has no shops, very limited public transport and hardly any jobs
  - greenfield site
  - better sites in the village
  - may be a few potential alternative locations for affordable housing such as along The Dale
  - need to preserve countryside for future generations
  - RSPB are fighting to maintain as many natural meadows as possible
  - impact on wildlife habitat
  - village design statement not consulted
  - Bonsall Design Statement works towards maintaining Bonsall’s character and charm – if the document is worthy, it should have some bearing on the application
- Bonsall Village Design Statement is a summary of what villagers think is important and distinctive about their village and its surroundings
- site is visible from The Peak District National Park and runs along its boundary.

**Need for Affordable Housing**
- question the evidence base for establishing need – believe this is now outdated
- no information regarding housing need, site selection or the review in 2014
- no ‘rigorous’ assessment of affordable housing need - walk around the village was in 2009, lacks detail and is out of date
- 2013 survey is out of date
- survey says may meet needs of adjoining parishes
- question logic of building affordable housing on a remote site in a village with few services
- is it appropriate to build housing for people on limited incomes in a place which requires then to own and operate cars
- understand there is affordable housing in Derby and Chesterfield so not a critical issue
- recognise need for low cost rental housing but wrong site
- other sites have been identified in Bonsall for affordable housing which would not impinge on village conservation plan
- do not believe that the assessment process is sufficiently transparent or objective – seems to be based on a landowner willing to sell land
- no evidence of the purchase of existing properties for affordable housing which has happened in other areas.

**Impact on the Character and Appearance of Area and Heritage Assets**
- Council has a statutory duty to preserve or enhance the character or appearance of conservation areas
- historic land
- part of the original curtilage to the old Upper Bunteshale Manor and, as such, cannot be developed
- Chestnut Farm and surrounding fields are of historic importance – would ruin the appearance of the lovely old farm and outbuildings
- Building of any kind would have an unacceptable impact on a conservation area
- green space a rarity in villages
- an extending ‘finger’ at the interface of the natural and built environment
- important space in the streetscape
- disagree with applicant’s statement that the site is insignificant to the magnificent countryside that can be seen from nearly all parts of the village
- high wall and ancient well create part of the ambience and essence of the hamlet would be destroyed
- Chestnut Farm is a key part of the village conservation plan
- site runs along the Limestone Way
- impact on the perfect view for walkers emerging from Stepping Lane
- limestone wall and postbox with field at wall height is the village green of Uppertown
- site is a feature of the area at junction of four roads
- layout does not take account that most houses front onto the highway
- estate style of layout would fail to respect existing pattern of development
- location, plan and density will do substantial damage to the Conservation Area
- parking areas out of character
- view of rear gardens with domestic paraphernalia and parked cars in view from Moor Lane
- should be a fresh Conservation Assessment by the Conservation Forum
- lighting intrusion
- judicial review determined that applications which do not preserve or enhance a conservation area should not be approved
- balancing a decision is not permitted in law
- case law clarifies that any harm to a conservation area, including less than substantial harm, gives rise to a strong presumption against planning permission being granted
- the applicant’s Heritage Impact Assessment at odds with Conservation Area Appraisal
- question the point of a conservation area appraisal if disregarded.

- Design, Scale and Massing
  - very little change to overall design
  - dwellinghouses too high
  - would be set 2.4m above road level on Moor Lane
  - site sits between 1.5 and 3m higher than the street
  - 7m height is some 1.6m higher than existing cottages on Uppertown Lane
  - dominant gable
  - will dominate existing properties and out of keeping
  - intrude on skyline
  - will stand out from views further away
  - design is more suited to a suburban apartment complex in a city or town
  - Village Design Statement states that suburban style cul-de-sacs are not characteristic of the village and should be avoided
  - angle of plots 1-3 does not follow line of other buildings
  - plots 4-5 not infill – just placed on agricultural land
  - no ‘close’ type development in Uppertown
  - too many compromises for the sake of price
  - block and render construction is not appropriate – most traditional houses are stone built
  - reference to reconstituted gritstone facings and plastic chimneys
  - no infill building in Bonsall – infilling an entire field is out of character with the entire built environment of Bonsall
  - extent of hard development is approximately 80% of the field
  - bin collection point is a long, tortuous journey from the bins at the houses – inappropriate for elderly or infirm
  - bin collection area is not big enough
  - do not consider the development suits the needs of people wanting a home
  - 3 bedroomed family houses with an option to buy or rent would be better than unwanted two bedrooms houses and flats with very little garden.

- Highway Issues
  - insufficient parking and manoeuvring space
  - increase in road width with increase speeding leading to accidents
  - congested junction
  - visibility not good
  - parking problems
  - current parking will be reduced by the access road
  - pedestrian and driver safety concerns
  - increased traffic through the village
  - highway authority will not be inspecting the site at peak times or while children are around
  - whilst parking provided, inevitable that it will add to existing congestion caused by street parking
  - foresee loss of bus route if parking issue deteriorates
  - school bus can no longer turn at this point
  - if approved would urge a reduction in the speed limit and signs indicating children at play.
• **Drainage Issues**
- storm drains are inadequate to service existing development
- roadway serves as a storm drain
- built on area would exacerbate run-off and exacerbate current flooding
- public sewers may have inadequate capacity for rainwater
- ground probably too rocky for soakaways.

• **Neighbours’ Amenity**
- overlook existing houses
- impact of smells from bins at bin collection point
- car park will be lit 24 hours a day.

• **Other Issues**
- suggest siting site nearer to Chestnut Farm using entrance from Abel Lane
- suggest an agreement is reached with local residents to purchase the land from Dales Housing so it can be preserved
- development of the site previously received considerable local objection
- buying a first home is not outweighed by the compromises of having housing on the site
- strong community but three families looking to leave the area if the development goes ahead
- frustrating that affordable housing schemes get preferential treatment when minor applications are rejected
- cost to local taxpayers - urge Councillors to consider the cost of another Judicial Review prior to determination of the application
- single storey design would be more acceptable and less intrusive
- concern over the positioning of the site notice amongst a proliferation of street furniture and other notices
- suggest the Council seek external legal advice before considering the application
- interested to know why the applicant would spend a significant amount of money for a field that has no planning permission
- Council must reject the application as it will meet the same fate in the High Court as the previous one – a waste of valuable resources.

One letter has been received supporting the application. The comments can be summarised as follows:
- fills a corner plot of the streetscene
- a greenfield site classed as an ‘exceptional site’ - application not in variance to Policy H13 (Affordable Housing Exceptional Sites in Rural Areas)
- Bonsall Village Design Statement clearly supports affordable housing (quotes from Statement referred to)
- applicant’s Heritage Impact assessment is well balanced and a fair assessment
- positive impact of the development is found to be high
- five new dwellings using high quality and appropriate materials on such a prominent site with relatively few houses will make a strong contribution to the character and appearance of the Conservation Area and counteract some of the harm done by the introduction of upvc windows and inappropriate house forms
- geography of Bonsall has to make allowances for the height of buildings (refer to top of the High Street and along Church Street)
- Country, District and Bonsall need more affordable housing
- meets one of the principal aims of the District Council to provide affordable housing to meet an identifiable local need.
7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:
1. Background
2. Policy
3. Impact on the Character and Appearance of the Bonsall Conservation Area
4. Design and Appearance
5. Scale and Massing
6. Amenity Issues
7. Highway Matters
8. Archaeology
9. Ecology
10. Impact on Community

Background

7.2 The proposed scheme has had substantial input from the District Council’s Rural Housing Enabler (RHE) over a 9 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.

7.3 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.

7.4 The sites that were considered with the Chestnut Farm site are as follows:
- works yard by The Cross – site unavailable and too small
- field on High Street opposite the north end of Able Lane – exposed site in a peripheral location
- derelict garage site – The Dale – development would be constrained by the bank at the back of the site and considered would not allow for 5 dwellings
- farm complex at Pounder Lane – a preferred site but was economically active
- lorry park – unsuitable as provides a significant function in the village.

7.5 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. Two further sites came forward after the walk around as follows:
- field between High Street and Pounder Lane – site too large for the proposed development and access issues; and
- field to the rear of the Assemblies of God Church, High Street – inaccessible due to the steep bank.

7.6 In relation to Bonsall and its adjoining parishes, only Middleton-by-Wirksworth has had relatively recent affordable housing scheme at Hallcroft. 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.

Policy

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

7.8 In this case, Policies SF4, SF5, H4, H9, H13, NBE5, NBE8, NBE21 and NBE24 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.

7.9 The site is not located within the Settlement Framework boundary as defined by the Adopted Derbyshire Dales Local Plan (2005) and normally regard would be given to Policies SF4 and H4 of the Adopted Local Plan which restrict residential development outside of Settlement Framework boundaries. However, the District Council is currently unable to demonstrate a 5 year housing land supply to meets its objectively assessed need and these policies cannot be given weight.

7.10 Policy H13 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.

7.11 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.

7.12 The site has the potential to provide habitat for protected species and, as such, regard needs to be given to the requirements of Policy NBE5.

7.13 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.

7.14 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 or appearance of the area. The Bonsall Conservation Area appraisal is therefore a material consideration in this respect. In addition, the site has the potential for archaeological remains and Policy NBE24 is therefore relevant to the consideration of the application.

7.15 In addition to the above, the Bonsall Village Design Statement is a material consideration. This states that this statement 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.
7.16 The Village Design 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.

7.17 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 and there are positive statements promoting affordable housing on pages 14, 20, 46, 48 and 51 of the Statement. The Council have recently published a first draft of the new Local Plan. The policies in this Plan do not materially change the way in which this scheme would be assessed. On this basis, and given the very limited weight they attract, they have not been needlessly replicated in this report.

Impact on the Character and Appearance of the Bonsall Conservation Area

Legislative considerations

7.18 In terms of Conservation Area, the primary legislation is set out in the Planning (Listed Buildings and Conservation) Act 1990. Section 72 of the Act states:

With respect to any building or land in a Conservation Area…….special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

7.19 This is reflected in government guidance set out in NPPF which advises on this need to preserve or enhance a heritage asset and states in Paragraphs 132, 133 and 134 that:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration and destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification…….Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss……Where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.20 The Courts, in interpreting Section 72 of the Listed Buildings Act 1990, have ruled that when an Authority finds that a proposed development would harm the character of a Conservation Area, it must give that harm considerable importance and weight. It does not mean the weight that the Authority should give to harm, which it considers would be limited or less than substantial, must be the same as the weight it might give to harm which would be substantial.

7.21 If the Authority finds that there is harm to the character of a Conservation Area, it gives rise to a strong presumption against planning permission being granted. However, this does not mean that the Authority must refuse planning permission; planning permission
can be granted if there are powerful material considerations. The Courts have said that an Authority can only properly strike the balance between harm on the one hand, and planning benefits on the other, if it is conscious of the statutory presumption in favour of preservation, and if it demonstrably applies that presumption to the proposal it is considering. Therefore, the District Council must assess the importance of the site and the contribution it makes to the Bonsall Conservation Area before it can consider what the impacts of development would be.

Character Assessment

7.22 In terms of 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, the site provides a setting for historic and important local features such as Chestnut Farm, the well and the post box.

7.23 The Bonsall Conservation Area Appraisal identifies the site as providing an extending finger of green space, which forms an interface between the natural and built environment and helps to further define the rural character of this part of the Conservation Area. It also states that the land lies at the core of Uppertown and contributes positively to the rural character of this part of the Conservation Area.

7.24 The fact that the retaining wall to Moor Lane is of such a height that the field itself may not be readily apparent, does not hide the fact that an area of open space exists beyond it and that this makes a contribution to the character and appearance of the area, as identified in the Bonsall Conservation Area Appraisal. The retaining wall itself also provides a striking feature in the manner in which it encompasses the southern and eastern sides of the field. In this respect, the proposed residential development would undermine the current and historic open character of the site and the development works would require the retaining wall to be compromised along the eastern boundary by way of facilitating such development.

7.25 These concerns have been highlighted by the District Council’s and the Peak District National Park Authority’s Conservation Officers and the Conservation Advisory Forum. As such, it is the view of Officers that development of the site would lessen the contribution of the site to the Conservation Area because of the loss of these recognised important features (the open space and part of the retaining wall). The proposal will result in significant change and, in relation to loss of existing site characteristics, will have a harmful impact on local landscape character and an impact on the character and appearance of the Conservation Area.

7.26 However, this change and harm to the Conservation Area has to be quantified and evaluated. In considering the aforesaid, and having given assessment to the proposed development, and the contribution it might make, it is necessary to consider the level of harm that such a development overall would have on the character and appearance of the Conservation Area.

Assessment of Harm

7.27 The village is tightly enveloped by the Conservation Area and the surrounding landscape plays an intrinsic role in underpinning the historic character, appearance and setting of the village and how and why it developed. Therefore, opportunities in and around the village are limited in the manner in which development can be brought forward without causing change and consequently having a degree of harm on its character and appearance. This is recognised in the assessment that has been made of alternative sites that could have offered opportunity for affordable dwellinghouses and a proposed site for open market
dwellinghouses within the village put forward as part the District Council’s need to meet its housing land supply allocation.

7.28 The application site forms a small part of the wider Conservation Area, notwithstanding its recognised importance as a component of the Conservation Area. However, the extent of harm caused by the loss of this open site, and the loss of part of the retaining wall through development, cannot be considered to be substantial harm to the wider Conservation Area, as would a development that would be obvious throughout the Conservation Area, (e.g. a wind farm), but moreso of local harm to the immediate area.

7.29 It has to be accepted that development of the field will not make a positive contribution to the Conservation Area or better reveal its significance as set out in Paragraphs 131 and 137 of the NPPF. However, the matter for consideration is whether the change resulting from the development of the site would result in substantial or less than substantial harm to the heritage asset as set out in Paragraph 132 of the NPPF having regard to the public benefits that may ensue.

7.30 Whilst the site is a green incursion into Uppertown, the hamlet itself is characterised largely by development aligning the highways of Uppertown Lane and Moor Lane, with open countryside beyond, and the proposal is considered to assimilate and perpetuate this existing built character. The loss of part of the retaining wall is regrettable but the retaining wall to the south, and the important well feature and postbox, would be retained. It is not considered that placing residential development in proximity to the well feature will diminish its historical relevance, or harm its setting, as this occurs elsewhere with the wells of Bonsall.

7.31 Full regard needs to be given to the views of the District Council’s and the Peak District National Park Authority’s Conservation Officers and the Conservation Advisory Forum in considering the impacts of the development, but also to those of the applicant’s heritage consultant. These views have been considered and in particular the National Park’s Conservation Officer considers that the proposed development would be an intrusion into the Conservation Area, as the site is at a much higher level than the ground to the south, and the development of this space will affect views in and out of the National Park and the part of the Conservation Area in the National Park.

7.32 The Conservation Advisory Forum makes in principle objections to the development, and has considered the proposal in some detail. It considers the scheme does not demonstrate any sense of appropriate ‘space or place’ within the context of the surrounding Conservation Area, considers the proposed layout to be inappropriate and the design of development to be an inappropriate ‘pastiche’ and suggests a more contemporary scheme should be explored. Local residents have raised significant concerns with regard to the height of the development and with it being set on the raised field.

7.33 It is recognised by Officers that the application site is set above the level of the highway on its southern and south eastern sides and that the development would have some prominence, primarily at the south eastern corner. 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 (traditional properties such as Lilac Cottage on Bankside, 63/65 High Street and Sycamore House and more recent development at 75 High Street for example). Development of sites within the village has historically been influenced by the topography of the area. The precedent set by these properties demonstrates that such development is not inappropriate.

7.34 In addition, the applicant has needed to set the buildings back from the road in order to provide for adequate visibility splays. In doing so, it is also considered that the buildings
are sufficiently set back not to be visually overbearing to Uppertown Lane. However, the linear alignment of the new development to the existing buildings on the west side of Uppertown Lane maintains a strong sense of linear development with the house frontages (plots 1-3) and the associated front wall. This is considered to respect the existing development pattern/form on this side of Uppertown Lane.

7.35 Whilst the objections to the design of the development are noted, it is considered by Officers that the dwellings themselves are of a design and materials that would be appropriate to, and would assimilate with, traditional development in the Conservation Area. The development aligns Uppertown Lane in a manner reasonably consistent with the traditional cottages in the area and form a row rather than being individual properties, which is also consistent. It is appreciated that there are dwellings proposed to the rear of the row but this is not considered wholly inconsistent with the character of the village and certainly does not form ‘a close’ given the limited area of development. Historically, some residential properties have been set back from the road. For example, Greenough House to the north of the site presents such a scenario where a gap occurs in a relatively consistent frontage.

7.36 The view of the Conservation Advisory Forum that the site could be considered for a contemporary form of development is considered inappropriate in such a context. In this area, such an architectural approach would introduce overt modern design which would present such a statement as to over-power the prevailing traditional forms of development. Therefore, given the above conclusion that the development is of a form and design that can assimilate with the Conservation Area, the overall degree of harm is tempered to some degree. It is considered that the development will result in a degree of harm to the character and appearance of this part of the Conservation Area. However, in the same considerations, it is the Officer view that this cannot be termed substantial harm. On this basis, regard must be given to whether there are public benefits, and an optimum use of land, that would outweigh the less than substantial harm, as set out in Paragraph 134 of the NPPF.

7.37 In this respect, it is considered that the proposals would lead to public benefit with the provision of much needed affordable housing to meet a locally defined need and to go towards meeting the District’s housing land supply requirements. Such development would be expected to assist local families and would also go some way towards underpinning local facilities such as the primary school. It is considered that the design of the development would also assimilate well with the traditional dwellinghouses in the immediate area.

Conclusion

7.38 Given the above, it is considered that the 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 also consistent with the Bonsall Village Design Statement advocating infilling within the built areas of the village. The requirements of the legislation have been interpreted by the courts as creating a strong presumption against development that harms the character and appearance of a Conservation Area. The Council have to weigh both the level of the harm and the strength of other factors that might outweigh that harm. In this case, the less than substantial harm caused by the proposed development within the Conservation Area is considered to be offset by the aforesaid public benefits arising from the development and is therefore consistent with the requirements of government guidance contained in the NPPF. Purely in terms of considering the impact of development on the character and appearance of the Conservation Area, it is the view of Officers that supporting the scheme would not be at variance with the aims of Section 72 of the Act.
Design and Appearance

7.39 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.

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

Scale and Massing

7.41 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.

7.42 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. It would also be possible to introduce some landscaping on the site between the retaining wall and the dwellinghouses and car park to provide a softening of the development.

7.43 A dropping of the levels has previously 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.

Amenity Issues

7.44 The development would face dwellinghouses on the opposite side of Uppertown Lane. In this respect, analysis needs 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.

7.45 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.
7.46 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.

7.47 Concerns have been raised with regard to the location of the bin storage facility and the potential for odour nuisance. However, this facility would only be for use on bin collection days. Whilst there may be some inconvenience with storing bins in such a location, this is only for a short time and, in many cases locally, it would be expected that bins would be collected from the fronts of properties in the area.

Highway Matters
7.48 The Local Highway Authority has 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.

7.49 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.

7.50 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.

7.51 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.

Archeology
7.52 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.

7.53 However, it is noted that a probable medieval earthwork bank exist 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 recommends the conservation of this feature. In this respect, whilst not detailed on the application drawings, the applicants have previously agreed to realign the proposed boundary wall to the north of the site to exclude this feature from the developable area and it is considered that, subject to such a condition, that the proposals are now satisfactory in terms of addressing archaeological issues.

Ecology
7.54 Derbyshire Wildlife Trust (DWT) has advised that the application is accompanied by insufficient information to fully understand the level of impact on biodiversity and how these impacts will be avoided, minimised, mitigated and, if necessary, compensated. The applicant has submitted an extended phase 1 habitat survey but this dates from November 2013. In addition, DWT has advised that insufficient information has been submitted to
demonstrate the presence or otherwise of protected species, particularly great crested newts, and the extent they may be affected by the proposed development. DWT has therefore requested an updated ecological survey work prior to determination of the application.

7.55 The actual requirements to address this matter would be for the applicant to undertake a further walk over survey of the site at an appropriate time (between April and September). The applicant has advised that they will be undertaking such an assessment. Given the comments of DWT, and that there would seem to be the potential for mitigation measures, if necessary, it is considered by Officers that the findings can be reported to Committee prior to the determination of the application and, if necessary, appropriate conditions attached to any grant of planning permission.

Impact on Community
7.56 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.

Conclusion
7.57 There are understandable 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. The site is also within the Bonsall Conservation Area and there is a need to have special regard to the desirability of preserving or enhancing such areas. This is set out in primary legislation in the Planning (Listed Buildings and Conservation) Act 1990. Section 72 of the Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

7.58 The proposals have been given due consideration by the District Council and the Peak District National Park Authority Conservation Officers and by the Conservation Advisory Forum. In their analysis, they have concluded that the proposal would clearly harm the character and appearance of this part of the Conservation Area.

7.59 It is appreciated that the development will have some impact on the 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. In this regard, the overall impact on the character and appearance of the Conservation Area is mitigated.

7.60 Whilst a reduction of site levels has previously been considered for the development, this is impractical whilst seeking to deliver the development within budget and, nevertheless, 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 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.

7.61 It is also considered that the proposal is consistent with the aims of the Village Design statement which advises that construction in 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; it is considered that the proposals have had regard to these objectives. The Village Design Statement also advises that the most acceptable form of new housing development is infilling within built areas of the village; Officers consider this to be the case with the application site.

7.62 Special regard has to be given to the desirability of preserving or enhancing the Conservation Area. The courts have interpreted as a presumption against harm unless strong material factors override this. Paragraph 134 of the NPPF sets into policy the arguments that need to be weighed. In this respect, 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. As such, 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.

7.63 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. It is considered that matters of impact on wildlife can be adequately addressed prior to the determination of the planning application and archaeological issues addressed through an appropriate condition.

7.64 Officers have appraised this resubmitted scheme afresh and fully considered the comments of consultees and the public alike. The development of this open field, which currently contributes positively to the character and appearance of the area, will result in significant change and that change is considered to represent harm. However, the level of harm is not considered to be as great as suggested and this is partly a reflection of the fact that the new development reflects the character and appearance of the village. Officers have concluded that the level of harm amounts to no more than less than substantial harm to the heritage asset. If this harm is then weighed in the balance against the very substantial community benefit of the delivery of five much needed affordable dwellings, it is considered that the planning judgement weighs in favour of supporting this scheme.

8. RECOMMENDATION

Planning permission be granted subject to the following conditions:

1. Condition ST02a Time Limit on Full

2. Notwithstanding the details on the approved drawings, the proposed boundary wall to the north of the site shall be realigned away from the medieval mound in accordance with details to be first submitted to and approved in writing by the Local Planning Authority and shall thereafter be provided in accordance with the approved details.

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 shall be 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 safeguard the archaeological feature to comply with Policy NBE24 of the of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

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 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 problems with the application and consent was granted without negotiation.

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 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.
8. This decision notice relates to the following documents:

Drawing Nos. 1950/P500, 501, 502, 503, 504, 505 and 506 received on 12th February 2016
Design and Access Statement received on 12th February 2016
Heritage Statement received on 12th February 2016
Heritage Impact Assessment received on 12th February 2016
Extended Phase 1 Habitat Survey, Arboricultural Impact Assessment and Code for Sustainable Homes Assessment received on 12th February 2016
Drainage and Water Search received on 12th February 2016.
### APPLICATION NUMBER
15/00060/OUT

### SITE ADDRESS:
Land off Lathkill Drive, Ashbourne

### DESCRIPTION OF DEVELOPMENT
Residential development of up to 35 dwellings with associated access and open space.

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### CASE OFFICER
H Frith

### APPLICANT
Knowles Family

### PARISH/TOWN
Ashbourne Town Council

### AGENT
DPDS Consulting

### WARD MEMBER(S)
Councillor P Chell
Councillor T Donnelly

### DETERMINATION TARGET
6 May 2015

### REASON FOR DETERMINATION BY COMMITTEE
Major application

### REASON FOR SITE VISIT (IF APPLICABLE)
To allow members to fully assess and appreciate the site and surroundings.

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### MATERIAL PLANNING ISSUES
- Principle Of Development
- Impacts On Ecology
- Impacts On Highway Safety
- Impacts On Residential Amenity
- Impacts On Landscape Character
- Flooding And Land Drainage
- Developer Contributions
- Prematurity
- Housing Mix

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### RECOMMENDATION
Approval
15/00060/OUT

Land off Lathkill Drive, Ashbourne

Derbyshire Dales DC

Date: 13/05/2016

100019785
1. THE SITE AND SURROUNDINGS

1.1 The site is located to the south east of Ashbourne and accessed via an existing housing estate and in close proximity to the Ashbourne Airfield Industrial Estate. The land previously formed part of the Ashbourne Airfield and is close to an extended local ridgeline elevated above and overlooking the valley of the Henmore Brook to the north west.

1.2 The land is characterised by rough grassland and groups of self-set trees and developing scrub. The site is of ecological importance being the habitat of the Dingy Skipper Butterfly which is a UK priority butterfly species. On the north eastern boundary scrub is becoming established extending from a substantial belt of woodland which occupies sloping ground beyond. To the south east is a high fence separating the site from the industrial estate. To the north west a thick blackthorn hedge extends a short way from the neighbouring housing site and screens existing development from the wider landscape views. Generally the land is open with a wide ranging panoramic view over the valley. The landscape character type is settled plateau farmlands type although the land has been modified by previous development in the locality. The site is well contained on three sides by existing development and vegetation.

2. DETAILS OF THE APPLICATION

2.1 Outline planning permission is sought to erect up to 35 dwellings on the land with all matters other than access reserved for future consideration. Access to the site is proposed via Cavendish Drive as a continuation of the existing roadway but will not physically link through to Lathkill Drive itself but will form a cul-de-sac. Through the application process the indicative layout of the scheme has been altered to now show only development closest to the existing dwellings to the western part of the site, with approximately half of the site left as important habitat. The development is indicatively proposed to be in two small perimeter blocks with development running in a line along the eastern border.

2.2 In terms of supporting information the applicant has provided the following:

An Affordable Housing document - which notes that they will accept 45% provision of affordable housing with some on-site and some off-site provision.

Landscape And Visual Impact Assessment - which concludes that the proposed development will retain and strengthen some of the key characteristics of the ‘Settled Plateau Farmlands’ LCA. As a consequence of the limited extent of adverse effects on both landscape and visual receptors, in combination with the mitigation proposed the development is acceptable in both landscape and visual terms.

Ecological Appraisal – raised no concerns with regard to ecological issues but recommended avoidance, mitigation and compensation measures.

Flood Risk Assessment – which provides detailed recommendations to ensure flood risk is minimised.

Transport Assessment – giving details of public transport and traffic surveys and concludes that the area is well connected and no existing highway safety issues are evident, capacity is sound and other forms of transport are available.
Design and Access Statement – which concludes that given the lack of housing supply and considering the three elements of sustainability, planning permission should be granted.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2005)

SF4: Development in the Countryside
SF5: Design and Appearance of Development
SF7: Waste Management and Recycling
H4: Housing Development Outside Settlement Framework Boundaries
3.2 Othe:

- National Planning Policy Framework (NPPF 2012)
- National Planning Practice Guidance
- Emerging Draft Derbyshire Dales Local Plan Policy
  - POLICY HC2 - which allocates this site as a site suitable for residential development of up to 35 dwellings.
- DDDC Landscape Character and Design Supplementary Planning Document (July 2007)
- The Housing and Economic Development Needs Assessment (September 2015) by G L Hearn

4. RELEVANT PLANNING HISTORY

4.1 WED/1081/730 Residential Development, Extension of Industrial Estate and new commercial area including Shops and a Public House (outline) - Refused.

5. CONSULTATION RESPONSES

Town Council

5.1 Object – there have been a significant number of developments on greenfield sites in Ashbourne. No assessment on how this will meet the needs of the town, no housing needs assessment, no education policy, no building for life assessment and some distance from the town.

After further consultations the following comments were received:
- The east side of the town is to become very over-developed would like to see substantial developer contributions.
- Substantive objections noted previously still stand
- Should be an appropriate mix of smaller units
- Should meet building for life criteria
- Assess impacts on local Hilltop School.
• Concerns remain in regard to ecology as noted by DWT and Butterfly Conservation Trust.
• A full application should have been submitted

Environment Agency
5.2 No objections in principle subject to the recommended detailed planning conditions. Raise the issue of nearby permit premises that may cause bad neighbour issues that the LPA should be aware of these; including Vital Earth and Moy Park Processing and Feed Mill.

Derbyshire County Council (Highways)
5.3 The submission of the transport statement is welcomed and whilst the Highway Authority may not agree with all of the detail contained therein, provided the conclusions are sound then it is not regarded as reasonable or warranted to vary the conclusions. Link and routes through via Lathkill Drive should be explored under the reserved matters application to ensure permeability. Conditions are recommended.

Derbyshire County Council (Planning)
5.4 Access to high speed broadband should be provided, new homes should be designed to lifetime homes standards and potential for sprinkler systems should be accommodated.

The development will generate the need for an additional 7 primary (3 infant and 4 junior), 5 secondary and 2 post 16 pupils.

• Hilltop Infant and Nursery School has sufficient capacity based on current projections.

• Parkside Community Junior School would not have sufficient capacity for the additional 4 pupils and therefore a financial contribution of £45,596.04 is required towards the provision of four primary places via the adaptation of a classroom (Classroom Project A) at the school.

• Queen Elizabeth’s Grammar School has sufficient capacity based on current projections.

Derbyshire Wildlife Trust
5.5 Initially objected to the proposal due to the adverse impacts upon the habitat of the Dingy Skipper Butterfly and inadequate surveys in respect of botanical interest and reptiles. In response to the latest amended plan the Trust advises that:

Our objection was made on the grounds that the proposed development would have a significant detrimental impact on a site of County level of nature conservation importance.

The site was identified to support an area of species-rich grassland that was of sufficient diversity to meet the grassland selection criteria as a Local Wildlife Site together with an area of habitat that supports a population of the Dingy Skipper UK priority butterfly species.

The Trust indicated that it would be willing to review its objection if a revised application and layout was submitted that clearly demonstrates how suitable mitigation and compensation for impacts on wildflower grassland of County level of importance and habitat that supports UK priority butterfly species will be delivered on the site. It was also noted that the site would be used for foraging/commuting by bats and therefore existing vegetation on the boundary should be retained where possible with supplementary planting.

The Trust are now in receipt of an amended Initial Illustrative Layout Drawing No. C9781.14.700 Rev. G dated 20.04.2016 which seeks to retain the ephemeral

On the basis of this revision to the layout we advise that our previous concerns in relation to impacts upon species-rich grassland and dingy skipper habitat have been largely addressed and are satisfied that measures to secure the protection of the proposed retained habitat areas during construction and the appropriate and long-term funded management of the retained habitat areas can and should be dealt with by suitably worded planning conditions. We therefore wish to withdraw our objection.

It is noted that no further reptile survey is required due to the reduction in the developable area of the site.

**The Butterfly Conservation Trust**

5.6 Initially objected to the application due to the adverse impacts the development would have upon the thriving colony of the important Dingy Skipper butterfly (UK BAP Priority species).

A response to the latest revised plan has not been received.

**DCC Flood Team**

5.7 No objection in principle but recommends a surface water drainage condition.

**Crime Prevention Design Advisor**

5.8 No objections to submitted crime prevention measures in the design and access statement.

**Development Control Archaeologist**

5.9 No adverse archaeological impact based on the submission of the ‘Archaeology and Heritage Appraisal’.

**NHS England**

5.10 Request a developer contribution of £551 per dwelling based on 2.3 person occupancy due to increased service demand. It is unlikely the Area Team would support a single handed GP development we would explore this further with the CCG and other stakeholders. Local practices are in the process of assessing the options available due to the amount of housing in the area. Until all options have been explored we are unable to give a definitive answer as to where the contribution would be spent.

**Landscape Design Officer (Derbyshire Dales)**

5.11 The original layout showed housing onto the ridgeline where it would be conspicuous and concerns were raised in this respect. The revised indicative layout moves the dwellings away from the ridgeline. Therefore the development requires planting to the northern corner immediately above the three dwellings in that location which will mitigate against the development.

**Strategic Housing (Derbyshire Dales)**

5.12 due to the extent of affordable housing available in close proximity to the site and the edge of town location recommend that a fully off site contribution is negotiated at 45% provision.

**Environmental Health (Derbyshire Dales)**

5.13 The close proximity of the proposed site to the Ashbourne Airfield Industrial Estate raises several concerns regarding noise, dust and odour from the estate. There are premises that create complaints from residents. Some of these premises and processes are under the jurisdiction of the Environment Agency. The past use of the site would raise concerns
regarding the possibility of contaminated land in the area of the proposed development therefore recommend a standard condition.

6. REPRESENTATIONS RECEIVED

6.1 Petition received which has been signed by 58 local residents of Lathkill Drive and Cavendish Drive which notes that:

- Lack of infrastructure, facilities and access roads
- Loss of view of the valley
- Adverse effects on wildlife
- Inadequate survey period
- Proximity to industrial estate with noise and smells
- Loss of green land and amenity
- Housing does not address local social need
- No concession to sustainability
- Based on meaningful community involvement the application should be refused
- More traffic onto an already inadequate access road which is narrow and has blind corners
- The play/exercise/leisure area is inadequately equipped for the residents

6.2 A total of 6 representations from 3 parties have been received. A summary of the representations is outlined below:

- Detrimental to skyline view
- Too close to industrial area resulting in smell, noise and vermin
- Access road is already narrow with poor visibility
- Detrimental to highway and pedestrian safety
- Detrimental to residential amenity
- Loss of green land
- Loss of planting that has taken place on the land
- Should be carbon neutral
- Adverse impacts upon ecology
- Adverse impact on bats, a protected species
- Will an equal number of replacement trees be planted
- Ecological surveys for bats should be undertaken
- Burglar access to rear of properties will be possible

6.3 After further re-consultation the following responses were received:

Two letters from one party raising the following concerns:
- Impacts upon ecology noting the importance of the site in terms of habitat and requesting refusal of the application.
- The reduction in developable site area misses the point that biodiversity will be lost and the development will harm habitats, ecology and protected species and should be refused.

7. OFFICER APPRAISAL

The following material planning issues are relevant to this application:

1. Principle Of Development
2. Impacts On Ecology
3. Impacts On Highway Safety
4. Impacts On Residential Amenity
5. Impacts On Landscape Character
6. Flooding And Land Drainage
7. Development Contributions (Play Space, Affordable Housing, NHS)
8. Prematurity
9. Housing Mix
10. The Planning Balance/Conclusion

**Principle of Development**

7.1 The Local Planning Authority is required to determine planning applications in accordance with the development plan unless there are material circumstances which 'indicate otherwise'. In this case the application site is outside of a settlement as defined by the Adopted Derbyshire Dales Local Plan and therefore in accordance with Policies SF4 and H4 the development of this site would not be acceptable as it would be outside of a defined settlement in open countryside.

7.2 However, currently the Local Planning Authority cannot demonstrate a 5 year housing land supply. In view of this in accordance with paragraph 49 of the NPPF, housing applications should be considered in the context of the presumption in favour of sustainable development (Paragraph 14). In the absence of a 5 year housing land supply paragraph 49 is clear that the relevant housing policies should not be considered up-to-date, this includes policies SF4 and H4 as noted above. This has been backed up in recent appeal decisions that have noted policies SF4 and H4 in relation to housing development and consider that they can no longer be applied as these seek to restrict housing to areas within settlement. With an objectively assessed housing need of 6500 it has been accepted that development outside of settlements is inevitable to meet the housing need, therefore policies SF4 and H4 should not be given weight in the decision making process.

7.3 This site has been allocated in the emerging local plan as a development site for up to 35 dwellings. Whilst, at present this emerging plan has little if no weight in the decision making process, the evidence base behind the allocation demonstrates that this is a sustainable location for residential development being within one of the District’s Market Towns and close to the services, facilities and employment opportunities provided in the Town.

7.4 Paragraph 14 of the NPPF in explaining how the presumption in favour of sustainable development should be approached states in relation to decisions this means:

Where the development plan is absent, silent or out of date, granting planning permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against his policy as a whole; or,
- Specific policies in this Framework indicate development should be restricted.

The site is in a generally sustainable location and therefore the decision taker is effectively asked to weigh the economic, social and environmental benefits and disbenefits against one another and only where those disbenefits significantly and demonstrably outweigh the benefits reject the scheme. The remainder of this report will analyse the scheme against this policy requirement. This report will consider the individual impacts and conclude with a balance of the issues.

**Impacts On Ecology**

7.5 Significant concerns have arisen through the application process regarding the sensitive nature of the application site in respect to ecology. This is an important habitat for the Dingy Skipper Butterfly, which is a UK BAP priority species, and the development of the whole site as initially proposed would have led to significant harm to this important habitat.
Through ongoing negotiations an indicative plan has been submitted that restricts the developable area of the site to the western part of the site only leaving the area to the far north and the east free from development and thereby protecting the habitat. Whilst there will remain some level of harm to the habitat this has to be considered alongside the ongoing maintenance of the habitat that can be provided via a long term management plan. On the basis of the restricted developable area of the site Derbyshire Wildlife Trust have withdrawn their objection to the proposal. Subject to stringent conditions regarding the protection of the area throughout construction and a long term management plan the ecological concerns regarding the proposal have been overcome and the proposal therefore meets the requirements of the NPPF in this regard and policies NBE3, NBE4 and NBE5 of the Adopted Local Plan.

**Impacts On Highway Safety**

7.6 Concerns have been raised by residents that the development will have a detrimental impact upon highway safety. The Local Highway Authority has considered the application and subject to conditions considers that the road network is acceptable and that the additional development can be safely accommodated without harm to highway safety. Numerous conditions are recommenced to be imposed on any permission to ensure optimum highway safety.

**Impacts On Residential Amenity**

7.7 Whilst the submitted plan is indicative only the development will in some areas be in close proximity to other dwellings in order to prevent development on the habitat area. It is considered the development can be accommodated on the smaller area of the site without causing undue harm to the amenity of existing residents.

7.8 The Environment Agency and in-house Environmental Health team have noted that there may be adverse effects upon new occupiers from existing commercial premises which are known to cause bad neighbour issues. This matter has been considered and whilst the regulations covering these sites remain within the control of the Environment Agency, the location of such premises is not so severe that planning permission should be refused. Again this issue is further resolved through the reduction in the developable area of the site.

**Impact On Landscape Character**

7.8 On the initial indicative plan the development was shown to project towards the north eastern part of the site where the development would be close to the ridgeline and therefore a landscaped buffer would be required to mitigate against harm to landscape character. However in the revised layout the impact of the development upon landscape character is much reduced due the restriction in the developable area being closely associated with existing development. Therefore the impact on landscape character is considered to be acceptable with a small area of planting required to the northern tip of the site immediately adjacent to the northern most proposed properties in order to mitigate their impact on the wider landscape view. The landscaping of the site is a reserved matter and can be adequately dealt with at that stage of the application process.

**Flooding and Land Drainage**

7.9 Matters of flood risk and surface water drainage can be adequately dealt with via conditions as recommended by the Environment Agency and the Derbyshire County Council Flood Team.
7.10 In terms of affordable housing the applicant’s agent is proposing 45% provision and has advised that they are flexible in terms of how this is achieved. Advice has been received from the Head of Housing that a fully off-site contribution would be appropriate in this case to the extent of existing available affordable housing in the immediate locality and the edge of town location. The applicant has agreed to the fully off-site contribution.

As much of the site has to remain as habitat with long term management a suitable play space cannot be provided on the site. Therefore in this respect the requirement to provide play space in accordance with Policy L6 of the Adopted Local Plan is best served by a financial contribution towards improved play facility at Cavendish Drive/Lathkill Drive play area, which is in close proximity of the application site.

7.11 There is sufficient capacity at household waste recycling centres and therefore no need for a contribution in this regard. It is advised that new dwellings should be to lifetime homes standards to meet the needs of an ageing community. No response has been received from the Derbyshire Clinical Commissioning Groups and therefore it is assumed no scheme of development directly related to this proposal has been prepared in regard to GP practices. Although the NHS has replied and requested a sum per dwelling, which might be appropriate had the council introduced a community infrastructure levy, this cannot be required unless it is to serve a capital project as a direct result of the proposed development. As there is no capital project, this developer contribution cannot be reasonably requested.

7.12 The Strategic Policy Team at DCC have advised that a contribution towards places at Parkside Community Junior School will be required, which the applicant has agreed to fund. It is considered that there is sufficient capacity at the infant and secondary school to accommodate the additional pupils as a result of this development.

Prematurity

7.13 National Planning Practice Guidance states that: ‘In the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area’.

7.14 This guidance goes on to advise that ‘refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process’.

7.15 Taking full account of this guidance and given the early stage of the plan making process and the fact that a 5 year supply of housing cannot be demonstrated, refusal on the grounds of prematurity cannot be justified in this case.
Housing Mix

7.16 Paragraph 50 of the NPPF states that:
“...To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:
• plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
• identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand ....""

As part of the evidence base for the emerging local plan a Housing and Economic Development Needs Assessment (September 2015) has been commissioned which will be used to inform the preparation of new policies. This seeks to ensure new housing meets the communities needs and states (Paragraph 8.43) that:
“...... the provision of market housing should be more explicitly focused on delivering smaller family housing for younger households. On this basis the following mix of market housing is recommended: 1-bed properties: 5%, 2-bed properties: 40%, 3-bed properties: 50%, 4-bed properties: 5%".

7.17 It is right that this guidance starts to inform the housing mix delivered on housing sites. But as the application is in Outline only the housing mix would be addressed under the reserved matters should all other matters be considered acceptable.

The Planning Balance /Conclusion

7.18 The Council remains unable to demonstrate a 5 year housing land supply. Therefore in the absence of a 5 year housing land supply the guidance in paragraph 49 of the NPPF is clear that the housing policies of the local plan are out of date. The balancing exercise identified in paragraph 14 of the NPPF is appropriate to reach a balanced judgement on the overall sustainability of this application.

7.19 Paragraph 14 requires the decision maker in assessing the merits of an application to grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole. As described above the Council has a shortfall in housing land supply. The development of this site will make a contribution to meeting the shortfall in supply, which lends substantial weight to supporting the scheme in the overall balance.

7.20 The social dimension of sustainability would be served by a contribution towards the upgrading of existing open space close to the development and other residents. In regard to other community infrastructure the development not overburden the existing Infant and Secondary Schools and a contribution towards the Junior School will ensure the additional pupils can be accommodated. Contribution towards affordable housing will also be provided through a financial contribution.

7.21 The economic dimension would be served by employment generated during construction and by a benefit to businesses within the area from additional resident spend.

7.22 In environmental terms the development of this site will ensure the important habitat area identified will be retained and the long term management of this secured. Furthermore the minimal harm to landscape character will be mitigated against due to the restriction in the developable area and through appropriate landscaping which can be secured through the reserved matters.
7.23 In the final balance, as the council cannot demonstrate a 5 year housing supply and there are no significant and demonstrable harmful impacts, planning permission should be granted for the proposed sustainably located development, subject to conditions and a legal agreement to secure the developer contributions, in accordance with paragraph 14 of the NPPF.

RECOMMENDATION

8.1 That planning permission be granted subject to a S106 agreement to secure: an off-site contribution towards affordable housing provision, an off-site contribution to upgrade the nearby play space and contribution to towards additional school provision, subject to the following conditions:

1. Application for approval of all reserved matters must be made not later than the expiration of three years from the date of this permission. The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval of such matters on different dates, the date of the final approval of the last such matter to be approved.

2. An application for details of the following matters (hereafter referred to as the “reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any works:
   a) the scale of the development;
   b) the layout of the development;
   c) the external appearance of the development;
   d) the landscaping of the site.

The development shall thereafter be implemented in accordance with the approved details.

3. The developable area of the site shall be in strict accordance with the amended Indicative Layout No. C9781.14.700 Rev G received 20.04.16 with the area shown as open space (none developed) being retained as natural habitat.

4. In accordance with condition 3 above prior to the commencement of development a detailed landscape and ecological management plan for all areas outside of domestic curtilages, including measures of protection during construction, a way of protecting the site from the public in the long term and signposting the site as a wildlife area, in accordance with plan no. C9781.14.700 Rev G received 20.04.16. The plan shall be submitted to and agreed in writing by the Local Planning Authority and works shall be completed in accordance with the agreed details.

5. Condition IC19: Restrict Operating Hours (0800 to 1800 Mondays to Saturdays only)

6. Along with the submission of the ‘reserved matters’ a detailed landscaping scheme for the site shall be submitted and shall include a landscaping buffer to provide a screen to the development to the north western corner tip of the site.

7. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
The scheme shall also include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.

- Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.

- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

8. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

9. No development shall commence until information has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the drainage scheme is designed so that peak flow of surface water from the completed development is restricted in accordance with S2 and S3 of the Defra non-statutory technical standards for sustainable drainage systems (March 2015).

10. No development shall take place, including any works of demolition, until a construction management, plan / construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan / statement shall be adhered to throughout the construction period. The plan / statement shall provide for:

   a. parking of vehicles for site operatives and visitors,
   b. storage of plant and materials and site accommodation,
   c. routes for construction traffic,
   d. method of prevention of mud / debris being carried onto the public highway,
   e. proposed temporary traffic restrictions,
   f. arrangements for loading / unloading and turning vehicles within the site,
   g. site access arrangements and any roadside hoarding.

11. Before any other operations are commenced Cavendish Drive or Lathkill Drive shall be extended into the site for a distance of at least 20m in order to provide a temporary access for construction purposes. The access shall be laid out at least 5.5m wide, constructed in a solid bound material and maintained to the satisfaction of the Local Planning Authority until the permanent access and estate street has been constructed.
12. The premises, the subject of the application, shall not be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the approved application drawings, or subsequent revisions agreed with the Local Planning Authority in writing, to conform to the guidance contained in the ‘Manual for Streets’ document issued by the Departments for Transport and Communities and Local Government and the Derbyshire County Councils own residential design guide, constructed to binder course level, drained and lit in accordance with the County Councils specification for new housing development roads. The estate street being fully completed with the final surface courses applied to carriageways and footways in a timescale to be agreed with the Local Planning Authority prior to the occupation of any dwelling, or other such timescale as may be agreed in writing by the Local Planning Authority.

13. Internal estate street junctions shall be provided with 2.4m x 25m visibility splays in either direction, measured up to 1m into the carriageway at the extremity of the sightline. The area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

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

15. The premises, the subject of the application, shall not be occupied until its vehicular assess has been created to the new estate street, laid out and constructed as may be agreed with the Local Planning Authority and provided with absolute minimum 2.4m x 25m visibility splays in either direction (measured up to 1m into the carriageway at the extremity of the splay), or such other dimensions as may subsequently be agreed in writing by the Local Planning Authority, the area in advance of sightlines being maintained throughout the life of the development clear of any obstructions to visibility over 1m in height (600mm in case of vegetation) relative to adjoining nearside carriageway channel level.

16. The proposed access driveways / parking spaces, to the new estate street, shall be no steeper than 1 in 14 for the first 5m from the nearside highway boundary and 1 in 10 thereafter.

17. The residential estate street layout shall be provided with 25m forward visibility sightlines, as laid out in the Derbyshire County Councils 6C’s design guide, the area in advance of the sightline being laid out as an extended footway, forming part of the estate street and not part of any plot or other sub-division of the site.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

19. Works shall not commence on site until a scheme for the disposal of highway surface water has been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of the dwellings and retained accordingly thereafter.
20. Prior to the commencement of the development hereby permitted details of the means of refuse storage including details of any bin stores to be provided shall be submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and provided prior to the first occupation of the development and retained for such purposes at all times thereafter.

21. Condition SD12 – Land Affected by Contamination (Submission of Remediation Scheme).

Reasons

1. This is a statutory period which is specified in Section 92 of the Town and Country Planning Act 1990.

2. The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5(1) of the Town and Country Planning (Development Management Procedure) Order 2015.

3. In order to ensure the protection of the ecological habitat in accordance with policies NBE4 and NBE5 of the Adopted Local Plan and guidance contained with the National Planning Policy Framework.

4. In order to ensure the long term protection and maintenance of the ecological habitat in accordance with policies NBE4 and NBE5 of the Adopted Local Plan and guidance contained with the National Planning Policy Framework.

5. Condition IC19 in accordance with guidance contained within the National Planning Policy Framework.

6. To ensure an appropriate landscaping scheme to mitigate against the impact of the proposal upon landscape character in accordance with policies NBE8 and NBE27 of the Adopted Local Plan and guidance contained within the National Planning Policy Framework.

7. To prevent the increased risk of flooding, both on and off-site in accordance with guidance contained within the National Planning Policy Framework and associated Practice and Technical Guidance.

8. To ensure that any contamination identified during development is dealt with appropriately (i.e. in order to mitigate any risks to ‘Controlled Waters’ receptors).

   National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

9. To ensure that the development does not exacerbate off-site flood risk and complies with the Defra non-statutory technical standards for sustainable drainage systems (March 2015).
10-20. In the interests of highway safety in accordance with Policies TR1 and TR8 of the Adopted Local Plan and guidance contained within the National Planning Policy Framework.

21. To ensure that risks from land contamination to the future users of the land and neighbouring land 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 guidance contained within the National Planning policy Framework.

NOTES TO APPLICANT:

1. NFA8: section 106 agreement
2. It is expected that the housing mix of the development for market housing will be: 1-bed properties: 5%, 2-bed properties: 40%, 3-bed properties: 50%, 4-bed properties: 5%.
3. The Local Planning Authority prior to and during the consideration of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to impacts upon ecology.
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. Advice form the Environment Agency – The applicant /developer should refer to our ‘Groundwater Protection: Principles and Practice’ (GP3) document, available from our website (www.gov.uk/environment-agency). This sets out our position on a wide range of activities and developments, including:
   - Storage of pollutants and hazardous substances
   - Solid waste management
   - Discharge of liquid effluents into the ground (including site drainage)
   - Management of groundwater resources
   - Land contamination
   - Ground source heat pumps

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

Reference to the 1:50,000 scale geological map Sheet 124 (Ashbourne) indicates that the site is located on Triassic Sherwood Sandstone which is designated a ‘Principal Aquifer’ by the Environment Agency. Superficial deposits of Glacial Till are indicated for the site which are designated as ‘Unproductive Strata’. The information submitted identifies that the site previously formed part of an airfield. Such land use has limited potential to have caused contamination and consequently we have no requirement for any further investigation into the presence of contamination.
It should be noted that in accordance with Government Policy detailed in the National Planning Policy Framework (paragraph 120), ‘where a site is affected by contamination or land stability issues, and responsibility for securing a safe development rests with the developer and/or landowner’. Therefore, should any significant contamination, not assessed by virtue of this report/project, subsequently become apparent responsibility remains with these parties.

The connection to foul sewer needs to be modelled by Severn Trent Water to ensure that the network can accept the extra loading, they should also therefore be consulted at an early stage.

In determining the application for this development we will assess compliance with the requirements of the river basin management plan. The development should:

- Not cause deterioration of waterbody status
- Not prevent achievement of good ecological status or good ecological potential in a waterbody
- Not prevent achievement of good chemical status in a waterbody
- Not cause deterioration in a drinking water protected area to an extent which could necessitate increased raw water treatment

We advise joint discussions between the operator, the Local Planning Authority and the Environment Agency to allow these issues to be resolved.

If any controlled waste is to be removed off site, then the site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitability permitted facility. The applicant is advised to contact the Environment Management team at Stafford Office on 03708 506506 or refer to guidance on our website http://www.gov.uk The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials are removed and go to an appropriate permitted facility and all relevant documentation is completed and kept in line with regulations.

If any waste is to be used on site, the applicant will be required to obtain the appropriate waste exemption or permit from the Environment Agency. They are unable to specify what exactly would be required if anything, due to the limited amount of information provided. The applicant is advised to contact the Environment Management team at Stafford Officer on 03708 506506 or refer to guidance on our website http://www.gov.uk The developer must apply the waste hierarchy in a priority order of prevention re-use, recycling before considering other recover or disposal options. Government Guidance on the waste hierarchy in England is at: http://www.defra.gov.uk/publications/files/pb13530-waste-hierarchy-guidance.pdf

4. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of Environmental Services at county Hall, Matlock (tel: 01629 580000 and ask for Mr I Turkington).

5. 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.
6. Pursuant to section 184 of the highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the Derbyshire County Council’s website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetadmin@derbyshire.gov.uk or telephone Call Derbyshire on 001629 533190.

7. Pursuant to Sections 219/220 of the highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate street the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

8. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the Derbyshire County Councils web-site; relevant forms are available via the following link – http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp.

9. Highway surface water shall be disposed of via a positive, gravity fed system (i.e.; not pumped) discharging to an approved point of outfall (e.g.; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soak-aways for highway purposes is generally not sanctioned.

10. Car parking provision should be made on the basis of (a maximum ratio of 1 parking space plus 1 space per 2 units for visitors per 1 bedroom dwelling, 2 spaces per unit for 2-3 bedroom dwellings and 3 spaces per unit, of which no more than 2 shall be inline, for a 4/4+ bedroom dwelling respectively). Each parking bay should measure 2.4m x 4.8m with adequate space behind each space for manoeuvring.

11. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the New Roads and Streetworks Section).

12. This decision notice relates to the following documents:
Affordable Housing Document received
Landscape And Visual Impact Assessment received 02.02.2015
Ecological Appraisal dated November 2014 ref EDP2223_05a received 02/02/15
Flood Risk Assessment revision A January 2015
Transport Assessment received 02.02.15
Design And Access Statement received 04.02.15 and Addendum received 25.11.15
Supplementary Information Following Consultation with Derbyshire Wildlife Trust ref EDP2223_06a received 25.1.15
Amended Indicative Layout No. C9781.14.700 Rev G received 20.04.16
### Application Number

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<th>Application Number</th>
<th>15/00316/OUT</th>
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### Site Address

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<th>Site Address:</th>
<th>The Yeaveley Arms, Leapley Lane, Yeaveley</th>
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### Description of Development

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<thead>
<tr>
<th>Description of Development</th>
<th>Demolition of public house and erection of 4 no. dwellings (Outline)</th>
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### Case Officer

<table>
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<tr>
<th>Case Officer</th>
<th>Mr Chris Whitmore</th>
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### Applicant

<table>
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<tr>
<th>Applicant</th>
<th>Mr Niel Mowatt</th>
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### Parish/Town

<table>
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### Agent

<table>
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<tr>
<th>Agent</th>
<th>Mr J. Steedman</th>
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### Ward Member(s)

<table>
<thead>
<tr>
<th>Ward Member(s)</th>
<th>Cllr. Morley</th>
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### Determination Target

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<th>Determination Target</th>
<th>1(^{st}) July 2015</th>
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### Reason for Determination by Committee

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<th>Reason for Determination by Committee</th>
<th>The development involves more than 3 houses outside of Matlock, Ashbourne, Wirksworth and Darley Dale</th>
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### Reason for Site Visit (If Applicable)

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<tr>
<th>Reason for Site Visit (If Applicable)</th>
<th>At request of officers to enable members to fully appreciate the impact of the development on its surroundings</th>
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### Material Planning Issues

- Planning policy context
- The appropriateness of the amount of development and the sustainability of the location
- Whether it has been demonstrated that the existing public house use is no longer financially or commercially viable or that there are no other viable means of maintaining the existing use;
- The impact of the development on the character and appearance of this part of the settlement and the amenity of the occupants of neighbouring residential properties;
- Whether the development reflects local needs, particularly with regard to affordable housing and mix;
- Whether there would be any highway safety implications, and;
- The planning balance.

### Recommendation

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<tr>
<th>Recommendation</th>
<th>Refusal</th>
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1. **THE SITE AND SURROUNDINGS**

1.1 The Yeaveley Arms is a public house and restaurant, with living accommodation above located at the Leapley Lane/Rodsley Lane junction, on the western fringe of the village of Yeaveley. The building has a long frontage and is partly set behind a forecourt (see figure 1). A larger parking area is to the rear, which can be accessed via a separate track. Public Footpath no. 14 ‘Yeaveley’ follows the route of this track. Of brick and tile construction, the building is mainly two storey with single storey elements to the southern side of its frontage and to the rear. Most of the facing brickwork has an off-white painted finish. The premises are not currently trading.

1.2 Directly opposite the site is Holy Trinity Church, a grade II listed building (see figure 2). To the north of the church is Yeaveley House Farm and The Tythe Barn, which are also grade II listed (see figure 3).

1.3 The site sits to the north of Hellingly, a large detached dwellinghouse (see figure 4) and south of Cornerfield House (see figure 5).

![Figure 1](image1.png) ![Figure 2](image2.png) ![Figure 3](image3.png) ![Figure 4](image4.png)
2. THE APPLICATION

2.1 Outline planning permission is sought to demolish the existing building and to erect four detached dwellings on the site, with all matters other than access and layout reserved for subsequent approval. In addition to a site location and topographical survey plan, the application is accompanied by a proposed site layout plan, indicative streetscene drawing, a Bat Emergence Survey by Brindle and Green Ecological Consultants and a supporting statement by John Steedman.

2.2 The proposed site layout plan shows three detached dwellings along the site frontage. The dwellings would occupy a similar part of the site as the public house and be set a similar distance back from Leapley Lane. The detached dwelling, which would sit at the southern end of the site, adjacent the boundary with Hellingly is shown to have a gable projecting beyond its principal / roadside facing elevation. Behind the three detached dwellings along the frontage a single detached dwelling is shown. The indicative streetscene drawing shows all the dwellings to be two storeys. Two of the dwellings are shown to be accessed from Leapley Lane and two from the track to the north.

2.3 With regard to the layout the applicant advises that the intention is to achieve a design in which new houses enhance the sense of enclosure currently created by the frontage of the existing building and emphasising the grouping of buildings around the church, by wrapping the proposed built form around the small village square created by the road junctions and the extent of the highway.

2.4 In respect of access the applicant advises that where sufficient set back from the highway is possible, vehicle parking on private driveways has been allowed for in plots 1 and 2. In the case of Plot 3, the applicant advises that in order to avoid parking spaces being dependent upon highway land, the access has been taken from the rear. It is advised that these measures have enabled the dwellings to be closely set together without the opening up of access drives between them, so achieving the tightly knit grouping.

2.5 Addressing the loss of the existing building the applicant advises that the planning application is made against the backdrop of the existing public house having become unsustainable as a business, with the current owner having passed retirement age and unable to carry on.
3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales District Council Local Plan (2005)
   SF4: Development In The Countryside
   SF5: Design And Appearance Of Development
   H4: Housing Development Outside Settlement Framework Boundaries
   H9: Design And Appearance Of New Housing
   H12: Alternative Provision For Affordable Housing Outside Of Settlement Frameworks
   NBE5: Development Affecting Species Protected By Law Or Are Nationally Rare
   NBE8: Landscape Character
   NBE12: Foul Sewage
   NBE16: Development Affecting a Listed Building
   NBE26: Landscape Design In Association With New Development
   S12: Important Local Services and Facilities
   TR1: Access Requirements And The Impact Of New Development
   TR8: Parking Requirements For New Development
   L9: Safeguarding Public Rights of Way

3.2 Other:
   The National Planning Policy Framework (2012)
   The Housing and Economic Development Needs Assessment (September 2015) by G L Hearn

4. RELEVANT PLANNING HISTORY

06/00592/OUT Extension to public house to create 10 no. letting bedrooms and extended and relocated restaurant (Outline) – Withdrawn
05/00637/OUT Extension to public house and restaurant to create 15 no. letting bedrooms (outline) – Refused
03/05/0379 Certificate of lawfulness for existing use of premises as a dwellinghouse – Refused
0299/0086 Change of use of public house to four dwellings involving extensions, alterations & construction of garages – Refused
0299/0081 Erection of bungalow and garage (outline) - Refused

5. CONSULTATIONS

5.1 Parish Council:

Rodsley and Yeaveley Parish Council object to this application.

They advise that at an Extraordinary Meeting, which was very well attended by residents of the parish, and, listening to the comments made by the public attendees the Parish Council unanimously rejected this proposal on the following grounds:

Change of use

- The overwhelming majority of attendees were totally opposed to the change of use from public house to residential. The Yeaveley Arms, is the only remaining 'Community Asset' in the village. It has been in the centre of the village for 175 years and would be a severe loss to the community. In the last 20 years, the pub has been closed more than it has been open and has thus failed to develop a strong customer following.
The application as presented

- The outline planning proposal shows the site to be very over developed with a housing density that is out of character with the surrounding properties (including 3 which are listed).
- Comparing the length of the frontage of the proposed development with that of the surrounding properties shows that to be comparable, two houses would fit on this plot and not the 4 in the outline plan.
- The fourth house at the rear of the site is backfill. Other properties along this road have applied for similar backfill properties and have consistently turned down.
- House 1 has a two storey section consisting of garage and upper rooms entirely in front of the existing building line created by the other houses along the road.
- Access on to the highway as indicated from houses 1 & 2 is very dangerous. It is at a blind spot to traffic coming from Alkmonton and directly onto the marked junction. Vehicles using the middle house (2) will have to reverse into the junction.
- Visitors to these properties (or overflow parking for residents) could not park alongside the plot since it is entirely taken up by the junction. This would mean that ancillary parking would take place in front of other residents' properties, on what is already a narrow road.

In addition to the above there was also concern that the development would remove the one area in the centre of the village where school children can safely wait and where a 50 seater school transport coach could safely pull-in and that land to the front of properties 2 & 3, which the village believes is part of the Highway, means that houses 2 & 3 would front directly onto the highway and be totally out of keeping with the village.

5.2 Local Highway Authority:
Make the following comments with regard to the layout of the houses and access:

The red line development boundary is in line with the extent of the highway boundary. The parking arrangements for the former public house had included part of the public highway which was not acceptable. The applicant was advised that this Authority may consider the stopping up of part of this area but they have not chosen to pursue this option.

Notwithstanding the above, the Highway Authority may at some point in the future, consider the parcel of highway surplus to requirements and stop up/extinguish highway rights over this area and change its aspect. This could affect the vehicular access to Plot 2 and pedestrian access to Plots 1 and 2 as they are both shown to require access across and use of this parcel of land.

As access is not a reserved matter the Local Highway Authority have requested that revised plans be submitted to address the above. Reference is also made to Plots 3 and 4 being served off Bull Lane to the north which does not form part of the publicly maintainable highway. The Local Highway Authority question whether the applicant has the necessary vehicular rights of access to the plot via this route as it is not shown within the application red-line boundary.

Subject to the above being addressed and conditions the Local Highway Authority raise no objections.

5.3 Derbyshire County Council Rights of Way Section:
No comments received.

5.4 Derbyshire Dales Group of the Ramblers:
No objections providing that the Yeaveley (FP 14) which runs adjacent to the development is not obstructed or affected in any way either during or after the development. Note that
the access to 2 of the houses will be from the footpath, which had previously been used as the entrance to the public house. Advise that clarification as to the legality of this will need checking.

5.5 Peak and Northern Footpaths Society:

Raise no objection provided the full width of Footpath 14 Yeaveley, which abuts the northern boundary of the site, remains open and unobstructed at all times during and after the development works. They advise that the residents in the new properties would need a private right of vehicular access to drive over the footpath, as otherwise they would be committing an offence.

5.6 Derbyshire Wildlife Trust:

A daytime preliminary roost assessment undertaken on 16th July 2015 evaluated the building as having moderate potential to support roosting bats and an appropriate level of further survey work was subsequently undertaken in accordance with current best practice guidance.

The dusk emergence and dawn re-entry bat surveys carried out on 11th and 21st August 2015 respectively recorded no bats emerging from or returning to the buildings.

During the surveys, bats were recorded using the southern and northern boundary hedgerows as foraging routes.

It is likely that the assessment that has been undertaken for bats meets Government guidance within Circular 06/2005 and, as such, sufficient information regarding these protected species has been supplied to enable the Council to make an informed decision in accordance with the guidelines and determine the application. In addition, the submission of the report now gives the Council confidence that a planning decision can be made having fully taken European Protected Species into account and that the Council has given regard to their obligations as set out within the Habitats Regulations 2010.

Overall, the evidence submitted indicates that European Protected Species (bats) are not present and, as such, would not be affected by the development.

Paragraph 10.1.3 of the report highlights the use of the hedgerow on the southern boundary of the site by foraging bats and rightly recommends the retention of this habitat feature within the development layout, which should be a condition of any consent.

National planning policy requires biodiversity enhancement where possible and the opportunity exists to secure enhancement of the local bat population within the new buildings. In the interests of biodiversity and to accord with the National Planning Policy Framework, we therefore fully support the incorporation of an IBSTOCK Free Access A bat box into each of the proposed properties as set out in paragraph 10.1.5 of the report which should be secured by a condition attached to any consent.

6. REPRESENTATIONS

6.1 Representations have been received from 16 local residents, 15 of which object to the proposed development and 1 make general comments. In objecting to the proposed development the following concerns are expressed:

Loss of the Public House
The owner claims that the property has been on the market for almost two years but it is known that he has refused reasonable offers during this time.

We do not consider that all other reasonable avenues to maintain the existing use have been explored.

In about 1991/92 the pub came under new management and was extremely popular and busy and drew customers in from a wide catchment area. This clearly demonstrates that with the right business model and management the Yeaveley Arms could in the future be a successful pub.

The pub was entered into an auction and was withdrawn.

Having failed to obtain planning permission to change to residential use, the current owner decided to re-open the pub in 2008 (after a long period of closure). This was in the midst of the global financial crisis.

The current asking price is £375,000. A similar sized pub at Wyaston changed hands a few years ago for considerably less than this.

By demolishing the pub we will be losing a community asset which will never be possible to replace.

Reference is made to the building being listed (which is not the case) and being attractive and of importance to the village. It is not considered therefore that it should be demolished.

All other local pubs are trading. There is no reason for Yeaveley to be different.

The pub was a thriving business. The first sign of decline was when the hours were cut. As a result, people were never sure when it was going to be open. The other main reason was the lack of advertising.

The owner did not want to make this pub a success – since taking ownership of the pub his main interest in the site has been for property development.

Despite outside interest in buying the pub, the owner has put up obstacles wherever possible.

We have already lost the school and post office.

In recent years the Yeaveley Arms has concentrated on attracting gourmet style restaurant diners with no accommodation for local public house patronage. A business strategy that also includes and builds on a relationship with the village is more likely to succeed.

The public house is considered a vital village amenity, in fact Yeaveley's only remaining amenity.

Layout

The block plan immediately emphasises the cramped layout. This is at odds with the spacious setting of properties forming the village centre.

The proposed development is incongruous and diminishes rather than enhances the locale.

The wing extending eastwards form the main frontage is unacceptable.

Unit 4, by its position, clearly violates the established embargos against both two-tier development and development into the village hinterland.

The proposal will result in overdevelopment of the site.

The frontage of one of the dwellings will be out of line and in front of all the existing houses on Leapley Lane.

The house in the back garden would be classed as backfill and if allowed would open up a flood of applications.

If residential use is the only way forward he existing historic building should be developed sympathetically on its large and prominent plot.

Why is it necessary to pull down the property, when the building could be converted to a private residence.

The public house has stood at the centre of the village for 175 years.
Highway Safety

- The respective frontages to units 2 and 3 either abut on or are separated only by the width of a narrow footpath from that area of land extending to the highway that is not part of the application site area. Historically this has been and, to the best of my knowledge, remains council land. Its use for various purposes has been proposed in the past, most recently as a shelter for students awaiting school transport. As matters stand it remains uncommitted to any particular use, although it serves as a convenient off-street parking area for church services and other events attracting the attendance of residents and visitors from beyond convenient walking distance of the village centre. It is almost inevitable that, with the apparent convenience of parking immediately outside their front doors as alternative to their designated parking locations, the council land would in time be annexed to this purpose by the residents of Units 2 and 3. With no other parking provision available, through traffic would be faced with the hazard of parked vehicles in the vicinity of the awkward junction of Leapley Lane, Rodsley Lane and Wyaston Road.
- Access for 2 of the houses is directly onto Leapley Lane and visibility will be clearly impeded by the position of the first house.
- Bull Lane is not adopted.
- Occupants of the dwelling will reverse out onto a dangerous junction with no or little visibility, where there have been numerous near misses.
- The school bus stops outside the pub and this is where the school children get on and off the bus – how will this continue?
- It would be increasingly dangerous for the 11-18 year old residents using the school bus with the 4 properties and their associated cars.
- The proposal does not include for enough car parking.

Loss of Amenity

- Reference is made to the oppressive proximity of the dwellings to one another and the impact on the amenity of the occupants of the adjacent property, Hellingley House.
- The dwelling proposed in the rear carpark will clearly be seen from our garden and rear bedrooms.
- Properties 1 and 4 are both built very closely to the boundary with Hellingley House – significantly closer than the pub is today.

Sewerage and Drainage

- The existing sewerage system is already under considerable pressure.

In commenting on the proposal it is stated that it is important that the design of the proposed development maintains the village’s character and setting of the Grade II Listed church.

7. ISSUES

Planning Policy Context

7.1 Before assessing the planning merits of this particular application, it is important to set out the policy context (local and national) and the weight to be given to policies contained within the development plan and other material considerations, including guidance contained within the National Planning Policy Framework (2012).

7.2 The Derbyshire Dales Local Plan, adopted in 2005 comprises the development plan for the area. Its policies have been saved and continue to be relevant where they are consistent
with guidance contained within the National Planning Policy Framework (2012). The National Planning Policy Framework (NPPF) was published in March 2012. Whilst the Framework does not change the statutory status of the development plan as the starting point for decision-making (Paragraph 12), in accordance with Paragraph 212 the policies contained within the Framework are material considerations which must be taken into account. Paragraph 14 advises that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date Local Plan; and also in circumstances where the development plan is absent, silent or relevant policies are out-of-date granting permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

7.3 Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites.

7.4 The Local Planning Authority is unable at this time to demonstrate a five year supply of housing, as required by national guidance. As such, Policies SF4 and H4 which deal with housing development outside of settlement framework boundaries are therefore considered to be out of date, a view confirmed by the Planning Inspectorate in a number of recent appeal decisions which involved housing development outside of settlement frameworks. In the absence of a 5 year supply of deliverable housing sites the NPPF directs decision making on planning applications to the guidance in paragraph 14.

7.5 It states: -
   For decision taking this means:
   Approving development proposals that accord with the development plan without delay and;
   Where the development plan is absent, silent or relevant policies are out-of-date granting permission unless:
   Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
   Specific policies of the Framework indicate that the development should be restricted.

7.6 The decision taker is effectively asked to weigh the economic, social and environmental benefits and dis-benefits against one another and only where those dis-benefits significantly and demonstrably outweigh the benefits reject the scheme.

7.7 The main issues to consider, having regard to the parts of the development plan which carry weight, national guidance and comments from the statutory consultees and public in respect of this application are:

   a) the appropriateness of the amount of development and the sustainability of the location, in terms of access to services and facilities
   b) whether it has been demonstrated that the existing public house use is no longer financially or commercially viable or that there are no other viable means of maintaining the existing use;
   c) the impact of the development on the character and appearance of this part of the settlement and the amenity of the occupants of neighboring residential properties;
   d) whether the development reflects local needs, particularly with regard to affordable housing and mix, and;
   e) whether there would be any highway safety implications.
7.8 Derbyshire Wildlife Trust are satisfied that the existing public house is not being used by bats and that its demolition would not result in any loss of habitat. Subject to retention of the hedgerow along the southern boundary, which comprises suitable foraging habitat the Trust raise no objections. Although a number of local residents raise issue with the ability of the local sewerage network to accommodate the proposed development, this would be a matter that would need to be considered at the construction stage, as part of the building regulations process. The applicant has indicated that an appropriate foul sewerage connection to a mains sewer can be made.

The amount of development and suitability of the location

7.9 One of the core planning principles in the National Planning Policy Framework is to locate new development in locations which make or can be made to make the fullest use of public transport, walking and cycling opportunities. Yeaveley is a small village with minimal services and facilities. The Yeaveley Arms, subject of this application, and the Church are the only services within the village. The level of existing facilities and infrequent bus service, which links the village to Ashbourne (some 5 miles away, where most day to day services and facilities and employment opportunities can be found) is such that the location is intrinsically unsustainable. The village is therefore not considered a suitable location for significant housing growth. The future occupants of any new dwellings would be highly reliant on the private motor vehicle to meet their daily needs. It is recognised that some infill and consolidation within smaller settlements, such as Yeaveley can help sustain existing services and facilities, however, the development would involve the loss of one of the only remaining facilities in the village in this case. Paragraph 55 of the National Planning Policy Framework advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Redevelopment of the site resulting in the loss of a community facility would, to some degree, be at odds with this requirement. Redevelopment of the site for housing could, however, be considered to be appropriate consolidation within the village, where the loss of the existing community facility is considered to be acceptable and to support the services in other villages nearby.

Whether it has been demonstrated that that the existing public house use is no longer financially or commercially viable or that there are no other viable means of maintaining the existing use

7.10 Policy S12 of the Adopted Derbyshire Dales Local Plan ‘Important Local Services and Facilities’ states that planning permission for development which would result in the loss of a local shop or other important local facility or service will not be granted unless there are adequate alternative facilities in the locality, or it can be demonstrated that the existing use is no longer financially or commercially viable and there are no other viable means of maintaining the existing use. The preamble to Policy S12 advises that proposals that would result in the loss of important local services and facilities including shops, and public houses will not be granted planning permission until all possible options have been explored to maintain the existing use. It goes on to state that as part of their submissions for planning permission applicants will be required to demonstrate the extent to which they have marketed the business as a going concern, and the viability of the options that they have considered. The loss of an important local facility, especially where it is the sole operation, will be the last option. This approach aligns with guidance contained at Paragraph 70 of the NPPF which advises that Local Planning Authorities (LPAs) should “guard against unnecessary loss of valued facilities where they would reduce the community's ability to meet its day-to-day needs” and should “ensure that established shops, facilities and services are retained for the benefit of the community”. Paragraph 28 calls on LPAs to promote the retention and development of local services and community facilities in villages and makes particular reference to public houses.

7.11 CAMRA (Campaign for Real Ale) have devised a series of questions, which are useful in establishing whether the continued use of a pub business is viable. This "public house
viability test' looks at local trade, customer potential, competition, flexibility of the site, parking, public transport, multiple use, partial loss, competition case studies, the business past and present and the sale. The case put forward by the applicant is that public houses are in general decline and that after a major relaunch in 2008 and significant advertising to promote the restaurant to a wider catchment, the business sustained losses and a decision was made to try and find a tenant. Accounts have been provided during the period July – December 2009 and January – July 2010 to support this claim. The applicant advises that a tenant, who successfully traded at another pub in a nearby village was found, however, after a year of trading was unable to make it a success and the pub was closed for a final time. No accounts have been provided for this period. The applicant advises that the property has been on the market since spring 2013 for £375,000 and that some interest has been received from individuals, but that this interest has withered away due to lending institutions being unwilling to provide mortgages for the acquisition of rural public houses. No further details of the marketing exercise that has been carried out has been provided. The Local Planning Authority have previously resisted a proposal submitted by the current owner for the conversion and extension of the public house to form three dwellings in 1999 on the basis that they did not present a compelling case for its non-viability as a commercial venture. In dismissing the appeal the Inspectorate noted that the nearest pub was two miles away and considered that its loss would diminish the social and economic life of the local community in the long term. In considering the accounts the Inspector considered that the first year of any business is unlikely to be profitable and noted in the second year that the pub had considerable potential for a trading profit. Since this decision the pub remained closed until it re-opened in 2008. It is difficult to establish whether the business would have been a viable proposition when it re-opened in 2008 as account information has only been provided from the period July 2009 to July 2010. During this period there are significant fluctuations in takings. High advertising costs and other expenses including staff wages resulted in an overall loss of approximately £50,000. Although the applicant claims that the quarterly figures show a steady decline in takings, it is unclear if the business was operating at the same level / with a similar number of staff during the latter stages as wage information is only provided up to the period ending December 2009. What the figures do reveal is that the pub had the potential to be profitable based on takings during the March – June 2009 period. There are other examples of thriving public houses in the local area, which serve a similar catchment / size of village.

7.12 Other than an application to convert the pub into 10 and 15 letting bedrooms, which the applicant claims was not cost effective, no consideration has been given to the possibility of combining the pub with alternative use of the building to ensure its long term viability. It is not considered that all possible options have been explored to maintain the existing use in this case.

7.13 Insufficient information has also been submitted to demonstrate that the pub has been effectively marketed. It is not known how widely the public house has been marketed, by whom and on what basis nor is it known in sufficient detail what level of interest has been generated. There is also no assessment as to whether the asking price is reasonable. This is particularly pertinent as anyone taking on the premises with a mortgage would need to be satisfied that the level of trade would meet their repayments and provide a living. An overly inflated price would clearly put off potential purchasers / lending institutions.

Impact of the development on the character and appearance of this part of the settlement and the amenity of the occupants of neighboring residential properties

7.14 Paragraph 61 of the NPPF advises that securing high quality and inclusive design goes beyond aesthetic considerations and that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Paragraph 58 advises that decisions should aim
to ensure that developments respond to local character and history and reflect the identity of local surroundings. The site forms an important site / area at the core of the village, adjacent a number of heritage assets. Although an important site within the village, it is not afforded any statutory protection. Despite its proximity to nearby listed buildings, redevelopment of the site would not affect the special setting of these buildings.

7.15 The application seeks to agree the layout of the houses. The existing Public House in its architectural form (a long single entity) has a distinct characteristic notwithstanding its use. In this regard that form, shape and character is deemed to have a positive impact on its surroundings. The application proposes to erect a row of three detached houses on a similar alignment along the Leapley Lane frontage. The three dwellings would sit in close proximity to one another in relatively small plots. The density of the dwellings would be at odds with existing housing development to the north and south. The plot at the rear projects into a zone of land which is beyond the general rear wall alignment of most of the houses on the west side of Leapley Lane. This would appear as an architectural anomaly in this location, a concern raised by a number of local residents. For reasons explained above the development is not considered to be an appropriate response to context and would not respond to positively to local character or history as required by the NPPF.

7.16 A number of concerns have been raised with regard to the potential impact of the development on the residential amenity of the occupants of Hellingly. The relative position of the two dwellings that would sit closest to the boundary with this property is such, however, that there would be no significant overshadowing impact. Subject to careful consideration of window positions it is possible to design the dwellings so that there would result in no significant loss of privacy.

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

7.17 Paragraph 50 of the NPPF states “to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes) and identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand ….” A Housing and Economic Development Needs Assessment has been recently carried out by the District Council (September 2015) as part of the evidence base for its emerging local plan which advises that “……. the provision of market housing should be more explicitly focused on delivering smaller family housing for younger households and recommends the following mix of market housing:

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

7.18 The application seeks to agree layout, which shows 4 no. detached dwellinghouses, with large footprints. Notwithstanding that the design of the dwellings is a matter to be agreed, the number of dwellings proposed is such that it is not possible to achieve the above mix. It is not, however, considered that the failure to achieve this mix would in itself constitute a sustainable reason for refusal given the Councils inability to demonstrate a five year housing land supply at this moment in time. Adopted Local Plan policies do not allow open market housing outside of defined settlements and, as such, they are silent on the requirement for affordable housing in such instances. A threshold was set for a contribution towards affordable housing of 33% for developments involving 3 – 24
dwellings or on sites of 0.1ha or more in the June 2013 draft local plan, which was withdrawn. A requirement of at least 30% has been set in the emerging local plan for development involving more than 3 dwellings, based on the latest housing needs and viability information. The applicant has advised that if the Local Planning Authority were minded to approve the applicant would enter into a S106 agreement to make an appropriate contribution towards affordable housing in accordance with policy requirements.

**Whether there would be any highway safety implications**

7.19 The application seeks to agree layout and access. The Local Highway Authority are satisfied that the accesses to the dwellings shown would be safe and that the dwellings would be served by an appropriate level of parking. Whilst concern has been raised with regard to the potential loss of the school bus drop off and pick up point, this is an informal arrangement and is not something the Local Planning Authority can safeguard, being located outside of the application site area. Of concern is that the access to three of the dwellings appears to be over land the applicant does not control. No notice has been served on the owners on the land. Without any agreement to cross land necessary to be able to access the dwellings, the proposed dwellings cannot be considered to be accessible to a road network, upon which any future occupants would be highly reliant, contrary to Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the NPPF.

**The Planning Balance**

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

7.21 Recent appeal decisions have confirmed that Policies SF4 and H4, which restrict new residential development outside of the settlement framework boundaries defined in the Adopted Derbyshire Dales Local Plan (2005) have been considered to be out of date and have been afforded no weight in the decision making process.

7.22 Paragraph 14 of the NPPF advises that where the development plan is absent, silent or relevant policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The decision taker is effectively asked to weigh the economic, social and environmental benefits and disbenefits against one another and only where those disbenefits significantly and demonstrably outweigh the benefits reject the scheme.

7.23 As previously discussed the District Council is unable to demonstrate a 5 year supply of housing land in addition to a buffer of 20% as required by the NPPF. The development of this site will make a contribution to meeting the housing needs of the district, which lends substantial weight to supporting the scheme.

7.24 In terms of the social component of sustainability, the unjustified loss of one of the last remaining community facilities within the village would far outweigh the delivery of a relatively small number of new homes to help meet the District Councils housing needs and any contribution towards affordable housing.

7.25 With regard to the economic dimension, the loss of any potential employment associated with the current use as a public house and its contribution to the local economy / potential value to other businesses would far outweigh the employment and additional resident
spend in the Derbyshire Dales District associated with the construction and use of the new dwellings.

7.26 In environmental terms the erection of four detached dwellings laid out as shown on the proposed block plan would result in a cramped form of development that would not respond positively to local character and history of this visually prominent and important part of the village. There are no perceived environmental benefits, other than the potential for the provision of additional bat habitat in the form of bat boxes. In addition to it not being demonstrated that some of the dwellings would accessible to a local road network, the development is considered to be unsustainable environmentally.

7.27 In the final balance, whilst the council cannot demonstrate a 5 year housing supply, this does not mean that all sites put forward are acceptable. It remains entirely reasonable and proper for the Council to resist development where the level of harm is considered so substantial as to significantly and demonstrably outweigh the benefits. When all of the above matters are weighed in the balance and having due regard to all the elements of the NPPF, it is considered that the social, economic and environmental dis-benefits of the scheme when considered as a whole would significantly and demonstrably outweigh the benefits and therefore the proposal should be refused in accordance with paragraph 14 of the National Planning Policy Framework.

8. RECOMMENDATION

8.1 Planning permission be refused for the following reasons:

1. Insufficient information has been submitted to demonstrate that that the existing public house use is no longer financially or commercially viable or that there are no other viable means of maintaining the existing use, contrary to the aims of Policy S12 of the Adopted Derbyshire Dales Local Plan (2015) and guidance contained within the National Planning Policy Framework (2012).

2. The layout of the proposed dwellings would result in a cramped and incongruous form of development that would not respond positively to the character and history of this visually prominent part of the village, contrary to the aims of Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

3. The application fails to demonstrate that appropriate access to a public highway from plots 3 and 4 can be achieved, upon which any future occupants would be highly reliant, contrary to Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

Footnotes:

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

This Decision Notice relates to the following documents:
1:1250 Scale Site Location Plan ;
1:500 Scale Proposed Block Plan numbered M133/1 ;
1:500 Scale Existing Topographical Survey Plan numbered JS/LS/1442-2 ;

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NTS Streetscene Perspective Drawing, and;
Document Titled Planning Statement and Supporting Information by John Steedman Planning received by the District Council on the 6th May 2015;
Ecological Appraisal by Brindle and Green Ecological Consultants received by the District Council on the 3rd August 2015;
Bat Emergence Survey by Brindle and Green Ecological Consultants and the letter and accompanying accounts information from John Steedman Planning received by the District Council on the 2nd September 2015, and;
The email from the applicants agent received by the District Council on the 22nd February 2016.
<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
<th>16/00099/FUL</th>
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<tbody>
<tr>
<td>SITE ADDRESS:</td>
<td>Land Adjoining Marston Montgomery Primary School, Thurvaston Road, Marston Montgomery for Radmore Ltd</td>
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<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>Erection of 9 no. dwellings, new community hall, provision of multi-use games area and modifications to access</td>
</tr>
<tr>
<td>CASE OFFICER</td>
<td>Mr Chris Whitmore</td>
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<tr>
<td>APPLICANT</td>
<td>Radmore Ltd</td>
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<td>PARISH/TOWN</td>
<td>Marston Montgomery</td>
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<tr>
<td>AGENT</td>
<td>Sammons Architectural Limited</td>
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<tr>
<td>WARD MEMBER(S)</td>
<td>Cllr. Morley</td>
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<tr>
<td>DETERMINATION TARGET</td>
<td>4&lt;sup&gt;th&lt;/sup&gt; May 2016</td>
</tr>
<tr>
<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>The development involves more than 3 houses outside of Matlock, Ashbourne, Wirksworth and Darley Dale</td>
</tr>
<tr>
<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
<td>At request of officers to enable members to fully assess the impact on the development on the local landscape</td>
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**MATERIAL PLANNING ISSUES**

- Principle / planning policy context
- The appropriateness of the amount of development and the sustainability of the location;
- Impact on the local landscape
- Impact on the character and appearance of the locality;
- Whether there would be any highway safety implications;
- The delivery of a new village hall and multi-use games area;
- Impact on neighbours amenity;
- Affordable housing and housing mix, and
- The planning balance

**RECOMMENDATION**

Approve with conditions.
16/00099/FUL

Land adjoining Marston Montgomery Primary School
1. THE SITE AND SURROUNDINGS

1.1 The site comprises part of an agricultural field used as pasture for the grazing of sheep (see figure 1) in open countryside beyond the village primary school at the western end of the village. The site extends to 0.87ha and includes part of the school playing fields and an existing car park (see figure 2), which is accessed directly off Thurvaston Road. The car park is owned by the villagers and looked after by the Parish Council and The Coronation Hall Management Committee. The site falls gently towards Marston Brook to the west. It is bound to the north by a hedgerow and land associated with Marston House Farm, to the east by the school, where a line of densely growing mature and semi mature trees is an important feature of the local landscape (See figure 3) and to the south by hedges and garden trees associated with private properties at High Croft and Holly Dene. The western boundary is open. St Giles Church, a Grade II* Listed Building is located approximately 200m to the south beyond the school buildings (see figure 4).

1.2 Opposite the existing car park access is a lay by and two terraces of former council owned properties (see figures 5 and 6).
2. **THE APPLICATION**

2.1 Full planning permission is sought to erect 9 no. dwellings a new community hall, form a multi-use games area and to modify the existing access. The original application had proposed to form a new school drop off point, resulting in the formation of a mini-island and the need to realign the main road through the village. Following objections by the Local Highway Authority and concerns that such an arrangement would be too urban in character, this element of the scheme has been withdrawn. It is now proposed to modify the access to improve emerging visibility resulting in the need to move the access point south into the school grounds. Off the new access road a lay-by for parking is shown.

2.2 The original application also set out the potential location of a multi-use games area within the grounds of the school. The applicant has agreed to provide this facility on the back of the delivery of the 9 houses.

2.3 In addition to the multi-use games area, the applicant proposes to construct a 300sq. m replacement village hall. The mono-pitch roof of the hall that was originally proposed has been replaced with a dual pitch. The building will be approximately 10m wide by 30m long. The exterior walls will be faced in red brick up to eaves level. The gable ends above eaves level will be faced in Cedar boarding and the roof in a dark grey sheeting with a standing seam finish. An entrance canopy will project beyond the north facing elevation, which will front a 27 space car park. At the rear a lean-to element is shown which will accommodate a stage. The applicant advises in respect of this element of the scheme that the existing village hall was until Spring/Summer 2013 used on a daily basis for many of the School’s day to day needs. They advise that the existing hall building is an old timber framed training hut dating from WW1 and that in the Summer 2013, following an inspection by Derbyshire County Council (DCC) concerns were raised regarding a possibility of collapse of the building. The school staff were instructed by DCC to suspend all use of the building until these concerns had been addressed. Repair of the existing hall is not considered a viable proposition. The applicant advises that the Hall Committee has continued to look at fund raising & other mechanisms to try to secure a sound financial future. Reference is made to a detailed application to the National Lottery for community funding to fund a new hall building which was rejected. The provision of 9 open market dwellings is presented by the applicant as a form of enabling development, to deliver a new village hall and other community benefits.
2.4 With regard to the nature and layout of the proposed houses, it is proposed to construct two terraces of three, a pair of semi-detached and one detached dwelling on land to the west of the village hall and car park. The dwellings will all be two storey, and are aimed at first time buyers. They comprise a mixture of two and three bedroomed dwellings (3 no. bedroom and 6 no. three bedroom). The dwellings would be serviced off a private cul-de-sac and will share the access with the village hall and car park. Five of the dwellings will have garages, which will be accommodated within 3 no. separate freestanding buildings. The dwellings will follow a zig-zag alignment. The dwellings have been designed to have chimney stacks, arched lintels and decorative eaves detailing. The dwellings would be traditional in appearance and form and will be faced in brick. The detached dwelling and pair of semis will have glazed lean to additions at the rear.

2.5 With regard to landscaping, existing tree planting along the western boundary of the school is shown to be retained. The western boundary has been drawn to line through with the boundaries of the dwellings to the south. A 5m wide planted margin comprising broad hedgerow planting and a belt of native understorey planting is proposed to form a strong boundary.

2.6 The applicant advises that the open market housing is necessary to facilitate and finance the construction of the replacement village hall and that the proposal will provide the means to provide such a facility, which is vital for the community and a range of lower cost market housing that Marston Montgomery desperately needs.

2.7 The application is accompanied by supporting letters from Marston Montgomery Coronation Hall Committee, DCC Children’s Services, and Marston Montgomery School. An extended phase 1 habitat survey and arboricultural report also accompanies the application.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales District Council Local Plan (2005)  
SF4 Development in the Countryside  
SF5 Design and Appearance of Development  
SF6 Protection of the Best Agricultural Land  
SF8 Catering for the Needs of People with Disabilities in Development and Redevelopment  
H4 Housing Development Outside Settlement Frameworks  
H9 Design and Appearance of New Housing  
H11 Affordable Housing within the Settlement Frameworks Of Other Settlements  
NBE8 Landscape Character  
NBE12 Foul Sewage  
NBE16 Development Affecting a Listed Building  
NBE26 Landscape Design in Association with New Development  
TR1 Access Requirements and the Impact of New Development  
TR8 Parking Requirements for New Development  
CS3 Provision of New Community Facilities and Services  
L6 Outdoor Playing and Play Space in New Housing Developments

3.1 Emerging Local Plan:  
S3 Settlement Hierarchy

3.3 Other:  
The National Planning Policy Framework (2012)  
4. RELEVANT PLANNING HISTORY

None.

5. CONSULTATIONS

5.1 Parish Council:
After much deliberation there was a majority vote to support this application. The Parish Council, raised concerns with the access and the proposed drop off point for the school. It was felt that the majority of parents who take their children to school by car would not just drop them off but would park and walk them into the school grounds and therefore the Parish Council considered the creation of a drop off point to be pointless.

Also it was considered that the removal of the layby in front of the houses on Thurvaston Road would create further problems especially for the residents.

Increase in traffic associated with more properties in the village was also raised as a concern.

5.2 Local Highway Authority:
After recent consultation with the agent regarding this application, the layout of the site and access has been revised in line with Local Highway Authority advice. Adequate emerging visibility is now achievable in both directions without (a) removing the lay-by opposite, (b) involving third party land and, (c) reducing the width of the public highway. This has been achieved by speed readings resulting in passing vehicle speeds of less than the 30mph limit and relocating the proposed access to the south.

The agent has also clarified how service and delivery vehicles can safely enter the site, turn and exit in a forward gear. Furthermore, adequate justification for the proposed level of parking within the site for the village hall has been submitted.

Therefore, the Highway Authority do not raise any objections and have advised that they will prepare a list of conditions and advisory footnotes, which will need to be appended to any decision, in due course. These conditions and footnotes will be presented as an item of late representation at the committee meeting.

5.3 Development Control Archaeologist (Derbyshire County Council):

The proposal site is peripheral to the historic medieval core of Marston Montgomery. Map evidence suggests that the earliest settlement was focused on the area around St Giles’ Church and the former manor site south of Barway, probably spreading later up the line of Thurvaston Road towards the proposal site. Aerial photographs shows cropmark evidence for ridge and furrow in the rear part of the proposal site (behind the school curtilage), extending into the fields to the north, and this suggests that this part of the site within the medieval open fields of the village rather than within the settlement core. It is possible however that the road frontage part of the site became developed during the later medieval or early post-medieval period, though there is no evidence for this by the time of the 1839 Tithe Map.

To summarise therefore, the frontage part of the site has a moderate potential for archaeological remains, likely to have experienced disturbance in the context of the school
development and landscaping, and the rear part of the site has little or no potential, given its location outside the medieval settlement, its small size, and the absence of any other archaeological indicators. Because the majority of development impacts are proposed to the rear of the school site, with the access road running along an area of existing hardstanding, I advise that the proposals are unlikely to have any significant archaeological impact.

Because the proposal site is close to the Grade II* Listed Church of St Giles, the local planning authority may wish to consider – guided by its conservation advice - whether the development proposals will harm the significance of the church through its setting.

5.5 Derbyshire Wildlife Trust:

Advise that all perimeter hedgerows and trees should be retained and incorporated within the development together with additional hedgerow and tree planting as part of a landscaping scheme. Section 5.2 of the ecology report recommended a minimum of 2m buffer to the hedgerow and ditch, we concur with the recommendations and wording to this affect should be condition, if planning permission is granted. In order to secure the long-term future and management of the perimeter hedgerows we advise that, wherever possible, they should not be incorporated within the curtilage of residential properties but should be located alongside paths, roads or areas of greenspace. Any new landscape planting, including the infilling of existing hedgerows and tree planting, should use native species appropriate to the corresponding landscape character area to be of maximum benefit for wildlife. A condition to protect the trees to be retained is also recommended.

Advise that none of the trees or buildings on site were deemed suitable for roosting bats, but do provide suitable foraging and commuting habitat. Suggest a condition to agree a lighting strategy to ensure foraging and commuting activity for bats are not affected by the works.

In addition to the above, conditions to protect breeding birds, encourage native planting and agree a landscape and ecological mitigation and management plan are recommended.

No reptiles or amphibians or suitable habitats were identified during the survey.

5.6 District Councils Landscape Officer:

Though the site and its surroundings fall within an area of landscape assessed as being of high sensitivity to housing development the application has merits in a number of respects:

- The site is low lying in relation to the western side of the Marston Montgomery and development is unlikely to be visually prominent in the view from here or from other parts of the village.
- It represents a modest intrusion into open countryside, effort having been made to ensure it remains, generally, within the existing settlement pattern particularly in its relation to existing property boundaries to the south.
- All existing trees will be retained

However, there are some concerns with the proposals as presented:

- The development will be conspicuous within views from the west/ south west as described above and as identified within the Landscape Sensitivity assessment.
- The landscape sensitivity assessment describes the western boundary of the village as being well-defined (in this case by the trees on the school boundary). There is a risk that extending development beyond existing boundaries will have an adverse
impact on landscape character, visual amenity and settlement pattern in this
respect.

If development is allowed, it is most important that the likely adverse impact on visual
amenity is mitigated in a satisfactory manner and that a strong settlement edge is re-
established on the new boundary. In this regard, the erection of a post and rail fence will
be inadequate and it should be replaced with a broad hedgerow/ belt of native understorey
planting with densely planted hedgerow trees which would be better able to perform the
task.

6. REPRESENTATIONS

6.1 Representations from 30 local residents have been received, 19 in support, 10 objecting
and one commenting on the application. In support of the application the following
comments are made:

New Village Hall

- It is great to see the community getting a new community hall.
- Having close friends and family who utilise and help fund the current village hall within
this area, any further development to increase the capacity and improve the village hall
and its amenities is a major benefit to the local community.
- This small development together with the new village hall is exactly what the village
needs.
- The village hall committee would never be able to achieve a much needed new hall
free of charge without some form of external funding or grant.
- It will bring both the car park and hall together and be superb facility for the school.
- The current village hall is extremely old and has had several major repairs over the
years. Ultimately a new building is required. It will ensure that Marston remains a
vibrant and diverse place to live.
- The proposal to provide a new village hall is an opportunity which should not be
missed.
- The new village hall will revitalise the village and provided a much needed purpose
built, versatile and flexible village community space for Marston Montgomery.
- The existing village hall sees little use due to the building being outdated and not fit for
purpose.
- We need a better hall with improved facilities to encourage and provide the ability for
groups / sports clubs and social events to take place.
- The school cannot use the existing village hall due to the unsafe nature of the hall.
Previously the school used the hall for PE, Christmas productions etc.
- It would be great to get a new village hall so that the younger generations of Marston
have a community hall and don't have the stress we have in trying to maintain one that
not going to last forever.

Scale of Development

- The development will encourage new families to the village, which in turn will support
the school.
- It is likely that school numbers would rise as a result of the proposed building of 9
family homes.
- The size of proposed development is in-keeping with the size of the village.
- The school is a major asset to the village and would benefit from an increase in pupils.
- There is a better chance of existing facilities surviving if we maintain or extend the
population.
- The development would represent a sustainable growth in housing.
• An increase in population would support the pub.
• We need the school to grow and the increase in housing will help this.
• Marston does have its problems of a primary school that needs to be kept viable, a village hall that is in need of replacement and a village pub that we can’t afford to lose. These are all essential in ensuring the vibrancy of the village.

New Dwellings

• The development will provide starter / family housing which will hopefully attract and keep the young people in the village.
• Smaller, affordable homes will be an asset to the village.

Impact on the Landscape

• The new houses are sited on a part of the village where the terrain is at a lower level and will not obstruct views from adjacent dwellings.

Other

• The disruption from construction traffic would be short lived, whereas the new homes will have a long term positive effect upon Marston Montgomery.
• There are substantial benefits associated with the use of the hall, improved sports facilities and school drop off.
• The parking plans for the new village hall have been thoughtfully considered. Many members of the community are older or less able to access the current building.
• The changes to the sports field will allow the school children to play more games and sports activities, supporting the need for a fitter, healthier community.
• The village hall facilities and multi-use games area would be a great asset to the community providing the multi-use games area is available for the community to use out of school hours.

In objecting to the proposed development the following concerns are raised:

Principle and scale

• The two developments in Marston would increase the housing population by 40%, which is too large an increase.
• The development will put unnecessary strain on local infrastructure - specific reference is made to the narrow country lanes.
• The development will open the floodgates to other applications of a similar nature.
• The proposal is outside the village boundary as designated by the housing plan of 2015.
• The land on which this development is being proposed was part of a larger parcel of land which was identified as being available for development as part of the District Councils call for sites exercise and was rejected on the basis of being unrelated to the existing settlement.
• This is a greenfield site. There are other sites that are more suitable for development.

Impact on the local landscape / character and appearance

• The development will spoil the rural nature of the village.

Impact on Amenity

• The dwellings on plots 7-9 are too close to the boundary of Highcroft.
Impact on Highway Safety

- The proposed entrance will be too hazardous as there are no public pavements in the village.
- The level of development will bring additional hazards to the single track road.
- Concerns have been raised with regard to the loss of the lay-by opposite the access and the parking it provides.
- The rural lanes are not suited to large volumes of traffic.
- The school drop off point will impact on access to and the availability parking spaces currently use by residents.
- The proposed access will create a bottleneck at peak times.
- There is no need for a drop off point. It is considered that the access just needs to be widened and a mirror installed.

Village Hall / Other Community Benefits

- The development has been bundled together with a village hall, which is a smoke screen to divert attention from the breach of the village boundary.
- There are a number of people within the village that wish to retain the current village hall or at least the current village hall site.
- The existing village hall is fit for purpose and there is no justification for replacing it with a new one.
- The addition of a cheap construction passing as a village hall in no way justified the residential development.

Other

- The land was sold in 1957 on the basis that it would be used as a car park, not an access for a housing development.
- The site is too close to the school.
- There is no guarantee that the future occupants of the dwellings would use the school.
- Issues of increased noise, light and air pollution are raised.
- The site plan does not show the correct boundary line.
- Reference is made to the ditch at the Highcroft being filled in about 20 years ago to a point where an intermittent stream still emerges. The water still flows underground along the old ditch course and following periods of heavy rain the ground can get sufficiently waterlogged for stock to sink into.

7. ISSUEs

Principle / planning policy context

7.1 Before assessing the planning merits of this particular application, it is important to set out the policy context (local and national) and the weight to be given to the different components of the development plan.

7.2 The Derbyshire Dales Local Plan, adopted in 2005 comprises the development plan for the area. Its policies have been saved and continue to be relevant where they are consistent with guidance contained within the National Planning Policy Framework (2012). The National Planning Policy Framework (NPPF) was published in March 2012. Whilst the Framework does not change the statutory status of the development plan as the starting point for decision-making, policies contained within the Framework are material considerations which must be taken into account.
7.3 On the basis that the District Council is unable at this time to demonstrate a rolling 5 year supply of housing land (plus 20% as required by the NPPF), Paragraph 49 advises that policies for the supply of housing should not be considered up to date and applications for housing applications should be considered in the context of the presumption in favour of sustainable development. Recent appeal decisions have confirmed this position, in that Policies SF4 and H4, which restrict new residential development outside of the settlement framework boundaries defined in the Adopted Derbyshire Dales Local Plan (2005) have been considered to be out of date and have been afforded no weight in the decision making process.

7.4 Paragraph 14 of the NPPF advises that where the development plan is absent, silent or relevant policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The remainder of this report will analyse the scheme against this policy requirement and in making this balanced judgement. The decision taker is effectively asked to weigh the economic, social and environmental benefits and dis-benefits against one another and only where those dis-benefits significantly and demonstrably outweigh the benefits reject the scheme.

7.5 Within the National Planning Policy Framework at paragraph 17 are a series of core planning principles. They state that planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs, always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, recognise the intrinsic character and beauty of the countryside, support the transition to a low carbon future in a changing climate, taking full account of flood risk, allocate land for development on land of lesser environmental value and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable, amongst other considerations.

7.6 Paragraph 58 of the NPPF advises that decisions should aim to ensure that developments respond to local character and history and reflect the identity of local surroundings. Paragraph 61 of the NPPF advises that securing high quality and inclusive design goes beyond aesthetic considerations and that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) align with this guidance.

7.7 Although there will be views of the site from St Giles Church, a grade II* listed building these would be against the backdrop of the school and existing residential development. The land has no historic association with the church. In this respect, its special setting would not be compromised by the proposed development.

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

   a) Whether the amount of development would represent an acceptable level of growth;
   b) Its impact on the character and appearance of the locality / landscape;
   c) Whether there would be any highway safety implications;
   d) The weight to be attributed to the delivery of a new village hall and multi-use games area / other community benefits
   e) Housing mix, and
   f) The planning balance
7.9 The site lies on the fringes of the village, adjacent the primary school. Marston Montgomery has been identified a fourth tier settlement in the draft local plan, which is at an early stage in the plan making process and can be afforded very limited weight. It is, however, recognised that such settlements have some services and facilities and employment opportunities (albeit at a low level) and that development is needed to help maintain those services and facilities. In this case, the site is well related to the village and is within walking distance of the all the existing village amenities, including the school, hall and public house. There is a desire within the village to see some housing growth to help support the school and pub. The level of development is relatively modest at 9 houses and, would it is considered, represent an acceptable level of expansion of the existing village in terms of helping to sustain / maintain its viability.

Impact on the local landscape

7.10 Policy NBE8 of the Adopted Derbyshire Dales Local Plan seeks to protect the character of local landscapes. Planning Inspectors have in recent appeal decisions concluded that it should only be afforded limited weight as it is at odds with the Frameworks more balanced approach to determining planning applications. The Ministerial Statement made by Brandon Lewis MP on 27th March 2015 recognises the importance of fully considering the impact of development on landscape character, which he recognises as an important material consideration in decision-making, even outside areas with statutory protection. The Council’s study of landscape sensitivity to housing development (Derbyshire Dales District Council: Landscape Sensitivity Study – Wardell Armstrong August 2015) assesses the area, within which the site is located as highly sensitivity to new housing development (a point raised by a local resident). The assessment does not, however, rule out residential development in such locations. It requires each site to be individually appraised.

7.11 The application site was identified as part of a much larger 2.26 ha site extending west up to the sewerage works as part of the District Council’s Strategic Housing Land Availability Assessment and was rejected on the basis of the sites unsustainable location and it being unrelated to the existing settlement. This application involves a much smaller area, which is more closely associated with the settlements existing built framework.

7.12 The District Councils Landscape Officer has carried out an individual appraisal of the site and noted that it is low lying in relation to the western side of the Marston Montgomery and development is unlikely to be visually prominent in the view from here or from other parts of the village. It was also noted that the development represented a modest intrusion into open countryside and that all existing trees would be retained. The western boundary of the site would line through with the boundaries of existing residential properties to the south and the applicant has agreed to plant a broad hedgerow/ belt of native understorey planting with densely planted hedgerow trees to mitigate any adverse visual amenity resulting from views from the west. The western boundary of the site would provide a logical boundary to the settlement. It is not considered therefore that any significant adverse impact on the local landscape would result, such that a recommendation of refusal could be sustained on this basis.

Impact on the character and appearance of the locality

7.13 Paragraph 61 of the NPPF advises that securing high quality and inclusive design goes beyond aesthetic considerations and that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Paragraph 58 advises that decisions should aim to ensure that developments respond to local character and history and reflect the identity of local surroundings. The site forms an important site / area at the core of the village,
adjacent a number of heritage assets. Although an important site within the village, it is not afforded any statutory protection. Despite its proximity to nearby listed buildings, redevelopment of the site would not affect the special setting of these buildings.

7.14 Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) deal with matters of design. Policy SF5 advises that planning permission will only be granted for development where... (a) the scale, density, massing, height, layout, materials of construction and landscaping preserves or enhances the quality and local distinctiveness of its surroundings. Policy H9 requires new housing development to be in scale and character with its surroundings and have regard to distinctive landscape features amongst other considerations. The National Planning Policy Framework is a material planning consideration in development management decisions and 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.

7.15 The application seeks to erect a series of terraced, semi-detached and a single detached dwelling at the western end of the site. The siting, design and form of the dwellings would be in tune with the looseness and ad-hoc nature of existing development in this location. The dwellings have been designed to have chimney stacks, arched lintels and decorative eaves detailing. This is considered to be an appropriate response to context. The roof of the village hall, which is a simple functional building has been amended so that it is of a more traditional form. Subject to careful consideration of facing materials the proposed buildings would, it is considered, respond to local character and history and reflect the identity of their surroundings and satisfy the relevant policies of the development plan and national guidance.

7.16 Although reference is made to plots 7-9 being sited too close to the boundary with Highcroft, which has been amended (following comments received from the occupants of this property), the siting of the proposed dwellings relative to this property and their height is such that they would not appear overbearing or result in any significant overshadowing or loss of privacy.

7.17 The multi-use games area would be situated within the grounds of the school and would be screened, to an extent, by the roadside hedge and the belt of trees along the western boundary. Subject to careful consideration of the boundary and surface treatments it is not considered that any harm to the character and appearance of the locality would result.

7.18 There are no significant watercourses nearby. Although reference is made to a ditch along the boundary with Highcroft and an underground stream, surface water will drain away from the site towards the brook. Subject to appropriate drainage being put in place (a matter which will need to be agreed as part of the building regulations process) development on the site would not result in any risk to surface water flooding on site or in the local area.

Whether there would be any highway safety implications

7.19 The application had proposed a new school drop off point which resulted in the formation of a chicane along Thurvaston Road and the use of the layby opposite (to the detriment of residents who use it for parking). Following objections from the Local Highway Authority and concerns that such an arrangement which would also involve a mini island would be too urban in appearance, this element of the scheme was withdrawn. The applicant now proposes to move the access point south to achieve an appropriate level of visibility onto Thurvaston Lane without the need to realign the road. This means that the layby can be retained for parking. The applicant also proposed to form a layby off the access road for
parking and agrees to residents using that new village hall car park when dropping children off at the primary school.

7.20 The Local Highway Authority have confirmed that the proposed access is acceptable from a highway safety perspective and that an appropriate level of parking would be provided to serve the proposed development. The Local Highway Authority have advised that they will prepare a list of conditions and advisory footnotes, which will need to be appended to any decision, in due course. These will be presented as late representations at the committee meeting.

The delivery of a new village hall and multi-use games area

7.21 A key benefit of the development is the delivery of a new village hall and multi-use games area. The majority of public comments received point to the need for a village hall and its value to the school and residents of the village. Letters of support from Marston Montgomery Coronation Hall Committee, DCC Children’s Services, and Marston Montgomery School accompany the application. They advise that the school would benefit from this facility. The Coronation Hall committee advise that the existing hall is fast becoming uneconomical to maintain and has suffered a recent period of enforced closure. Although a number of residents consider the existing hall to be fit for purpose, the Local Planning Authority have no reason to dispute the assertion the village hall would benefit from a modern replacement.

7.22 The applicant has agreed to deliver the hall on the back of a relatively small number of new dwellings. Subject to the applicant entering into a phasing scheme to ensure its delivery and a condition to secure its future management, the provision of such a facility would be a significant benefit to the local community, as would the provision of a multi-use games area for school use and potentially sports clubs / local resident (subject the schools agreement, being located on land they control). Both facilities would need to be attributed weight in the overall planning balance.

Affordable housing and housing mix

7.23 The applicant does not propose to make any contribution towards affordable housing in this case. They advise that the open market housing is necessary to facilitate and finance the construction of the replacement village hall and multi-use games area. The Local Planning Authority are satisfied that the commitment to deliver such a facility on the back of a small scheme of new housing, is such that it would not be viable to ask for a contribution towards affordable house in this case.

7.24 The applicant considers one of the benefits to the community to be the delivery of a range of lower cost market housing. Paragraph 50 of the NPPF states that:

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

• plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);

• identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand ……”

7.25 As part of the evidence base for the emerging local plan a Housing and Economic Development Needs Assessment (September 2015) has been commissioned which will be used to inform the preparation of new policies. This seeks to ensure new housing meets
the communities needs and states (Paragraph 8.43) that “the provision of market housing should be more explicitly focused on delivering smaller family housing for younger households. On this basis the following mix of market housing is recommended: 1-bed properties: 5%, 2-bed properties: 40%, 3-bed properties: 50%, 4-bed properties: 5%”.

7.26 On small housing schemes such as this it is impossible to achieve the above mix. The proportion of two and three bedrroomed dwellings that will be delivered on the site would however get close to the mix of housing, which is required to meet the community housing needs.

Planning balance / conclusion

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

7.28 Recent appeal decisions have confirmed that Policies SF4 and H4, which restrict new residential development outside of the settlement framework boundaries defined in the Adopted Derbyshire Dales Local Plan (2005) have been considered to be out of date and have been afforded no weight in the decision making process.

7.29 Paragraph 14 of the NPPF advises that where the development plan is absent, silent or relevant policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The decision taker is effectively asked to weigh the economic, social and environmental benefits and dis-benefits against one another and only where those dis-benefits significantly and demonstrably outweigh the benefits reject the scheme.

7.30 As previously discussed the District Council is unable to demonstrate a 5 year supply of housing land in addition to a buffer of 20% as required by the NPPF. The development of this site will make a contribution to meeting the housing needs of the district, which lends substantial weight to supporting the scheme.

7.31 The social dimension includes the provision of a new village hall and multi-use games area and the delivery of new homes to help meet the community housing needs and underpin other services and facilities within the village.

7.32 The economic dimension would be served by employment generated during construction and associated with the day-to-day management and maintenance of the village hall and the benefit to existing public house from additional resident spend.

7.33 In environmental terms although the development would encroach into the field / open countryside to the west of the settlement, it would be bound by a significant belt of tree and hedge planting, which will form a strong boundary to the settlement and will line through with the existing boundaries to the dwellings to the south. No significant harm to local landscape character would result in this respect. Whilst not a significant benefit, the development offers the potential to make a number of biodiversity improvements.

7.34 In the final balance, whilst the council cannot demonstrate a 5 year housing supply, this does not mean that all sites put forward are acceptable. It remains entirely reasonable and proper for the Council to resist development where the level of harm is considered so substantial as to significantly and demonstrably outweigh the benefits. When all of the above matters are weighed in the balance and having due regard to all the elements of the NPPF, it is considered that the benefits of the scheme would outweigh the dis-benefits in
this case. A recommendation of approval, subject to conditions, is put forward on this basis.

8. RECOMMENDATION

8.1 That planning permission be granted subject to the following conditions (in addition to any conditions recommended by the Local Highway Authority):

1. The development hereby permitted must be begun before the expiration of three years from the date of this permission.

2. This permission relates to the original application documentation except as amended by the revised plans received by the Local Planning Authority on the 18th April and 11th May 2016 numbered 2015-2069-10 Rev C, 2015-2069-12 Rev F, 2015-2069-13 Rev B and 2015-2069-14 Rev B.

3. Prior to the commencement of development details of the phasing of the development and a plan relating to the long term management of the village hall building, to ensure that remains available to the community it is intended to serve in perpetuity, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and the village hall managed in accordance with the approved details.

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

5. Prior to the commencement of development details of the boundary treatment to and surface of the multi-use games area and its management shall be submitted to and approved in writing by the Local Planning Authority. The multi-use games area shall thereafter be constructed and managed in accordance with the approved details.

6. All window and door frames (including garage doors) shall be recessed in their openings a minimum of 50mm behind the front face of the external walls of the buildings.

7. No development shall commence on site until a scheme of hard and soft landscaping (which shall include details of the broad hedgerow / belt of native understorey planting with densely planted hedgerow trees along the western boundary set out on the approved drawings) has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :-

   a) indications of all existing trees, hedgerows and other vegetation on the land;
   b) 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;
   c) measures for the protection of retained vegetation during the course of development;
   d) soil preparation, cultivation and improvement;
   e) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
   f) grass seed mixes and sowing rates;
   g) finished site levels and contours;
   h) means of enclosure;
i) car park layouts;

j) other vehicle and pedestrian access and circulation areas, and;

k) hard surfacing materials.

8. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any dwelling or in accordance with a programme to be agreed in writing with the Local Planning Authority.

9. No development shall take place until a landscape management plan, including long-term management responsibilities and maintenance schedules for all landscaped areas and areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

10. No development shall commence until details of all external lighting have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details and no additional lighting installed without the prior written approval of the Local Planning Authority.

11. No removal of vegetation shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds’ nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Such written confirmation should be submitted to the Local Planning Authority for approval before any vegetation is removed.

12. A landscape and ecological management plan (LEMP) (or equivalent) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following:

   a) Description and evaluation of features to be managed / enhanced or created.
   b) Ecological trends and constraints on site that might influence management.
   c) Aims and objectives of management.
   d) Appropriate management options and methods for achieving aims and objectives.
   e) Timescales
   f) Prescriptions for management actions.
   g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
   h) Details of the body or organization responsible for implementation of the plan.
   i) Ongoing monitoring and remedial measures.

The development shall thereafter be carried out in accordance with the approved details.
Reasons:

1. This is a statutory period which is specified in Section 91 of the Town and Country Planning Act 1990.

2. For the avoidance of doubt.

3. To ensure that the village hall, a key benefit derived from the development is delivered and managed in perpetuity in accordance with guidance contained within the National Planning Policy Framework (2012).

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

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

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

7. To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features in accordance with the aims of Policies SF5, H9, NBE6, NBE8 and NBE26 of the adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

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

9. To ensure the management of landscaped areas in the interests of visual amenity in accordance with the aims of Policies SF5, H9 and NBE26 of the adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

10. In the interests of safeguarding protected species in accordance with the aims of Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

11. In the interests of biodiversity and safeguarding nesting birds in accordance with Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and with the guidance contained within the National Planning Policy Framework (2012).

12. To enhance biodiversity and in the interests of achieving a satisfactory standard of landscaping in accordance with the aims of Policies NBE5, NBE6, NBE7 and NBE26 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).
Footnotes:

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

2. With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request or £28 where the related permission was for extending or altering a dwelling house or other development in the curtilage of a dwelling house. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

This Decision Notice relates to the following documents:
Document Titled Design and Access Statement;
Document Titled Affordable Housing Statement;
Arboricultural Report by Tree Heritage Ltd;
Extended Phase 1 Habitat Survey by Whitcher Wildlife Ltd dated 2nd March 2016;
1:1250 Existing Site / Topographical Survey Plan numbered 2015/2069-01;
Letters of support from Marston Montgomery Coronation Hall Committee, DCC Children’s Services, and Marston Montgomery School, and;
Radar Spot Speed Readings received by the District Council on the 15th February and 9th March 2016;
Amended 1:100 Scale Village Hall Elevations, Floor Layout and Cross Section Plan numbered 2015/2069-10 Rev C received by the District Council on the 18th April 2016, and;
### Planning Committee 24th May 2016

**Agenda Item 4.5**

<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
<th>16/00144/S106D</th>
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<tr>
<td>SITE ADDRESS:</td>
<td>THE MINERS COTTAGE, MINING LANE, CARSINGTON</td>
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<tr>
<td>DESCRIPTION OF DEVELOPMENT</td>
<td>DISCHARGE OF S106 PLANNING OBLIGATION DATED 6TH AUGUST 2013 TO REMOVE REQUIREMENT TO PAY AFFORDABLE HOUSING CONTRIBUTION</td>
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<tr>
<td>CASE OFFICER</td>
<td>Gareth Griffiths</td>
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<tr>
<td>APPLICANT</td>
<td>MR AND MRS MADDOCKS</td>
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<tr>
<td>PARISH/TOWN</td>
<td>Carsington</td>
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<tr>
<td>AGENT</td>
<td>N/A</td>
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<tr>
<td>WARD MEMBER(S)</td>
<td>Councillor L. Rose</td>
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<tr>
<td>DETERMINATION TARGET</td>
<td>15 May 2016</td>
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<td>REASON FOR DETERMINATION BY COMMITTEE</td>
<td>At the request of Ward Member to assess the need for the financial contribution towards affordable housing</td>
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<td>REASON FOR SITE VISIT (IF APPLICABLE)</td>
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### MATERIAL PLANNING ISSUES
- Background and Planning Policy
- Justification for the Non-Payment of the Affordable Housing Contribution

### RECOMMENDATION
Refusal
16/00144/S106D

Miners Cottage, Mining Lane, Carsington
1. **THE SITE AND SURROUNDINGS**

1.1 Miners Cottage is located on the west side of Mining Lane, a narrow rising access which heads north off Main Street, within the Carsington and Hopton Conservation Area. There are four grade II listed buildings in close proximity to the cottage. The cottage (originally likely to have been a barn based on its remains) sits within a small curtilage with garden land to the west and south, where there is a small outbuilding.

1.2 The two-storey cottage is rectangular in plan with a two-storey section to the north and a single storey extension to the south. The overall footprint of both buildings is approximately 40sq metres. The cottage was in a semi-ruinous state, having had its roof removed. The building is currently undergoing conversion and extension to form a dwellinghouse subject to planning permission 11/00070/FUL as detailed in the photographs below.

![Photographs of Miners Cottage](image1.jpg)

2. **DETAILS OF THE APPLICATION**

2.1 Planning permission 11/00070/FUL was granted in June 2012 to convert and extend the former cottage to create a two-bedroom dwelling. An affordable housing contribution was required as part of the proposed development which, based on the local housing need for Carsington, was £25,722.00. The applicant entered into a Section 106 Agreement to make the payment within three years of the commencement of the development or on first occupation, whichever is the sooner.

2.2 With this current application, the applicants now seek to discharge the obligation to make the payment of the affordable housing contribution. The reasons for this are as follows:

- the applicants are not developers – they are a small family seeking to build a small home in the village as their own ‘affordable’ dwelling as priced out by the market
- will allow them to reside in a village where other generations of the family have resided
- have been delayed in the building works due to the S106 contribution making it unaffordable and unfeasible
- informed by Officer that the making of such contributions was under review and extremely likely the requirement for S106’s would be removed
- got conflicting view from Officer and had no option but to get finance in place on a buy-to-build mortgage to enable a commencement of the development to avoid needing to reapply for planning permission
- have had to pay numerous legal fees to lenders to satisfy their concerns with regard to the S106 agreement
- £25,722 is 18.5% of the overall build cost
- understand that if apply now will not have to pay contribution
- expecting works to be completed by summer 2016 and allow the family to return to Derbyshire
- consider S106 has hindered the project and building costs have inflated over the years
- not making a huge impact on the infrastructure of the Carsington area and two bedroomed dwelling will have minimal effect
- improving a site in need of maintenance and restoring due to health and safety risk
- improving an area and tourist walking route
- will contribute greatly to the community and invest in Derbyshire overall.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 The Development Plan consists of the Derbyshire Dales Local Plan (Adopted November 2005)

Derbyshire Dales Local Plan (DDLP)

SF4 Development in the Countryside
H4 Housing Development Outside Settlement Framework Boundaries
H5 Conversion and Re-use of Buildings to provide Residential Accommodation
H12 Alternative provision for affordable Housing Outside Settlement Frameworks

Government Policy

3.2 National Planning Policy Framework - Paragraphs 14, 54

Other Relevant Guidance / Legislation

3.3 Affordable Housing: Derbyshire Dales District Council Supplementary Planning Guidance
Adopted July 2006

4. RELEVANT PLANNING HISTORY

11/00070/FUL Change of use, conversion and extension of building to dwellinghouse and associated access – Granted and subject to S106 legal agreement.

5. CONSULTATION RESPONSES

5.1 Parish Council
- fully support the application
- applicant is from a family with strong ties to the village
- recognise the current lack of local and affordable housing within the village
- feel that applicants should not be penalised by way of a financial obligation in their efforts to create a home.

6. REPRESENTATIONS RECEIVED

6.1 None.

7. OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:
1. Background and Planning Policy
2. Justification for Non-Payment of Affordable Housing contribution

Background and Planning Policy

7.2 Planning permission for the change of use, conversion and extension of the building to a dwellinghouse was granted in 2011 in line with Policy H12 of the Adopted Local Plan
This policy deals with the alternative provision for affordable housing outside Settlement Framework boundaries and states that:

In determining applications for planning permission for residential development outside defined Settlement Frameworks, the Council will seek to negotiate a financial or other contribution towards the provision of affordable housing on suitable sites elsewhere in the plan area.

Therefore, where a residential conversion to a dwelling is considered to be acceptable under Policy H5 of the Adopted Local Plan (2005), a financial or other contribution is normally required. Whilst it was recognised that the applicants themselves had a local connection, in accordance with policy and to provide for affordable housing needs in perpetuity through promoting development secured through RSL involvement an affordable housing contribution was negotiated and agreed. The applicant was prepared to pay the relevant sum of £25,722 based on the property that was being proposed to secure a planning permission.

Assessment of the Justification for the Non-Payment of the Affordable Housing Contribution

The applicant advises that he does not wish to now make the payment and that there may be alterations proposed to such policy requirements. The emerging local plan is at a very early stage and can currently only be given very limited weight.

At this moment in time, the Local Planning Authority must give full regard to its existing, saved Policies in the Adopted Local Plan (2005), unless these are deemed out of date as set out in Paragraph 14 of the National Planning Policy Framework (NPPF). This states that at the heart of the NPPF is a presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up to date Local Plan. In circumstances where the development plan is deemed absent, silent or relevant policies are out-of-date, then development should be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

The NPPF advises in Paragraph 54 that, in rural areas, Local Planning Authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Policies H5 and H12 are considered consistent with the NPPF and can still be given substantial weight in assessing this proposal. In this respect, the provision of a financial contribution is considered reasonable in allowing an open market dwellinghouse in a rural area. Therefore, in terms of Local Plan policy, it is considered that the Policy H12 remains relevant as its aims are in line with government guidance.

SUMMARY AND CONCLUSIONS

Planning permission 11/00070/FUL has been commenced and the approved dwellinghouse is nearing completion and expected to be occupied in the coming months. Section 106 agreements should only be discharged in a case such as this if they no longer serve a useful planning purpose. It is clear in this case that the policies of the local plan which seek to secure affordable housing contributions remain relevant and the main basis for assessing this application. As they have not been superseded the requirement to make a payment should only be lifted if the applicant has made a compelling case for a significant other change in circumstances. Whilst the payment may be demanding it has not been suggested or demonstrated by the applicant that the scheme is not financially...
viable. In the absence of such a case and given the likely end value of the property it is not considered appropriate to agree to the request.

8. RECOMMENDATION

That the S106 legal obligation relating to the financial contribution towards affordable housing provision shall not be discharged.

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 issue through further 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 document:
Site Location Plan received on 1st March 2016.
<table>
<thead>
<tr>
<th>APPLICATION NUMBER</th>
<th>16/00168/FUL</th>
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</thead>
</table>
| SITE ADDRESS:      | Ashbourne Airfield  
A52  
Ashbourne  
Derbyshire  
DE6 1LY |
| DESCRIPTION OF DEVELOPMENT | Formation of new link road |
| CASE OFFICER       | Mr. Jon Bradbury |
| APPLICANT          | Mr. Paul Harrison |
| PARISH/TOWN        | Yeldersley |
| AGENT              | Planning Design Practice |
| WARD MEMBER(S)     | Councillor Andrew Shirley |
| DETERMINATION TARGET | 13 June 2016 |
| REASON FOR DETERMINATION BY COMMITTEE | Requested by Ward Member |
| REASON FOR SITE VISIT (IF APPLICABLE) | |

**MATERIAL PLANNING ISSUES**

- Planning history
- Principle of the development
- Highway safety
- Impact on residential amenity

**RECOMMENDATION**

Approval
1. **THE SITE AND SURROUNDINGS**

1.1 The application site concerns an area of land to the east of Ashbourne Airfield Industrial Estate between it and the cluster of houses at the Osmaston / Yeldersley crossroads on the A52. The site links into the existing Blenheim Road access road for the industrial estate at its western end and comprises the route of a link road between it and the A52 which would join the A52 to the west of Osmaston crossroads.

1.2 The site currently has some open storage to its western end but is predominantly former airfield with no active land use. Where the site joins the A52 is a narrow strip of self-set woodland. Along the site frontage of the A52 to the west is a boundary hedge. The nearest dwelling to the east is The Thatched Cottage. On the opposite side of the A52 is agricultural land with a copse of trees lying opposite the point of access onto the A52. The airfield site is relatively level with only a gentle downward gradient between it and the A52. The site lies 500m from the boundary with Osmaston Conservation Area.

2. **DETAILS OF THE APPLICATION**

2.1 Full planning permission is sought for the construction of a new link road. The link road will connect Blenheim Road which serves as the only current access to Ashbourne Airfield Industrial Estate with the A52 to the west of Osmaston / Yeldersley crossroads on the A52.

2.2 The new link road will join the A52 with a centre line to its junction approximately 220m to the west of the centre line of Yeldersley Lane at its junction with the A52. At this point the centre line of the new link road where it meets the A52 will be approximately 65m from the west boundary of the curtilage of The Thatched Cottage.

2.3 The junction with the A52 will be signal controlled. To facilitate this road widening is required utilising the site frontage between the boundary with The Thatched Cottage and a point approximately 65m to the west of the new junction. This road widening on the A52 will entail realigning the northern edge of the carriageway by a maximum of just over 3m to enable the introduction of a right turn lane for vehicles travelling east to west. The right turn lane will be over 40m in length. The southern edge of the carriageway is realigned by a maximum of 1m. The realignment to the north will entail removal of hedgerow and vegetation to either side with the realigned footway being linked into the existing footway.

2.4 The new link road at its junction with the A52 will have an overall splay width of approximately 40m (see figure 1). The new road will incorporate 2 lanes for traffic leaving the airfield with a filter lane to the east. One lane is proposed for traffic entering the site from the A52. Each lane would have a width of 3.5m and the road design has a width of 13m at the lights where a pedestrian crossing is incorporated.

2.5 The proposed link road will run to the north on a gentle arc for approximately 180m before turning west and extending for a further 600m to meet the current end of Blenheim Road (see figure 2). The red line of the application then extends just over 100m to meet the end of the adopted section of Blenheim Road.

2.6 Detailed drawings have been provided of the access road and junctions to be taken from it. The carriageway has a continual minimum width of 7.3m to accommodate industrial traffic and makes provision for public transport with bus stop pull-ins along with cycle lanes and footpaths. The first access spurs off to the right approximately 75m from the junction and is identified as servicing commercial development. The second access is a spur to the left approximately 90m in and is designed to serve as an access to future B2/B8 industrial development. The third access spurs to the right on the crown of the bend approximately 200m in and is designed to serve as a residential / B1 industrial access capable of accommodating a bus service. A further access for commercial developments
spurs 55m to the east of this. The second access to the south of the link road is 45m to
the west and is designed to serve B2/B8 traffic with a 7.3m carriageway. Approximately
50m to the west of this to the north of the link road the 6th spur is identified for residential
usage. The 7th spur lies 110m to the west of this and is designed for B2/B8 usage. The
final spur lies a short distance from the current extent of industrial activity on the airfield
70m to the east and is shown to be capable of accommodating B2/B8 traffic. The link road
then narrows slightly to the west of this as it follows a gentle curve to meet up with the
existing roadway.

2.7 The application is accompanied by an Ecological Appraisal, Drainage Assessment and
Planning Statement. These have been made available for public inspection and consultee
comments and with the exception of a brief summary of the Planning Statement their
contents are not needlessly repeated.

2.8 The Planning Statement makes the following key points:-

- The emerging Local Plan relies heavily upon the redevelopment of the Airfield to
  meet the needs of the area during the plan period. The proposal is a commitment
  from the applicant to ensure progress is made.

- The Council’s Planning Committee have already resolved to grant planning
  permission for a wider scheme under reference 14/00074/OUT and this awaits final
  resolution of the legal agreement.

- The new access was a key element of that earlier scheme and has been agreed in
  principle.

- The new link road will not only support mixed use redevelopment but will also help
  alleviate congestion locally, particularly at the junction of the A52 and Derby Road.
  This benefits the environment by reducing emissions.

- The scheme promotes sustainable transport modes with provision for buses, cycles
  and pedestrians.

- The new link road will allow for the creation of jobs, prosperity and wider choice of
  new homes all benefitting the economic wellbeing of the area.

- Short term employment will be created during construction.

- Long term economic benefits will result from both reduced congestion and providing
  serviced industrial land.

- New housing will benefit the local economy as residents support existing
  businesses and services and retention or expansion of the labour force will benefit
  local business.

- The development delivers social benefits in increasing access to housing and
  allowing for greater access to employment opportunities. Community facilities will
  also be provided on the wider site.

- The flood risk assessment demonstrates that development can be accommodated
  without further risk of flooding.

- Previously identified ecology interest on the wider site is not affected. Mitigation is
  proposed.
• Archaeological evaluation has been agreed with the County Archaeologist.

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan
SF1: Development Within Settlement Frameworks Boundaries
SF4: Development in the Countryside
SF5: Design and Appearance of Development
EDT1: Land For General Industrial And Business Development
EDT2: Existing Strategic Employment Land And Business Premises
EDT5: Industrial And Business Development Within Settlement Framework
EDT15: New Build Industrial And Business Development Outside Of Settlement Frameworks
NBE6: Trees And Woodlands
NBE7: Features Important In The Landscape
NBE8: Landscape Character
NBE12: Foul Sewage
NBE21: Development Affecting A Conservation Area
NBE24: Archaeological Sites And Heritage Features
TR1: Access Requirements And The Impact Of New Development
CS9: Utility Services & Infrastructure

3.2 National Planning Policy Framework paragraphs 7, 14, 17, 20, 21, 28, 29, 34, 37, 38, 70, 75, 109, 111, 118, 120, 129, 132, 134, 196, 197, 210, 211, 212, 215, 216

3.3 Emerging Derbyshire Dales Local Plan (Draft Plan 2016)
HC2: Housing Land Allocations
EC1: New Employment Development
EC1A: Employment Land Allocations
EC1A(a): Land at Ashbourne Airfield (Phase 1)
EC1A(f): Land at Ashbourne Airfield (Phase 2)

4. RELEVANT PLANNING HISTORY

4.1 14/00074/OUT: Residential development (367 dwellings) employment site, commercial and community facilities, link road, access and landscaping (outline) – Committee resolution to grant planning permission subject to legal agreement.
5. CONSULTATION RESPONSES

5.1 Local Highway Authority
Have in initial comments expressed some concerns over the lack of a finalised design for the junction with the A52, the design of the narrowed section of estate road, incorporating the unadopted section of highway on Blenheim Road and securing appropriate visibility for the access from Hangar 4. The applicants have provided reassurance and clarification on these matters and on this basis support the application with conditions, a full list of which will be provided before Planning Committee.

5.2 Osmaston and Yeldersley Parish Council:
Object to this planning application. The site chosen is not suitable due to proximity to Osmaston crossroads. It is not suitable to be traffic light controlled. There is no traffic assessment with the application. It is assumed that the applicants rely on the earlier assessment but the application indicates that the link road is to serve a wider development. This would significantly increase traffic with a more complex junction carrying three times as much traffic. Is the junction still viable. There is a plan for another junction off the A52.

5.3 Bradley Parish Council: Object
The junction is too near Osmaston crossroads. Traffic controlled by lights will bank up at peak times and block the crossroads causing traffic to turn down Yeldersley Lane. Peak times include school traffic dropping off at Osmaston school.

No traffic survey has been submitted to demonstrate if the traffic controls will work with the wider development.

Need to restrict access down Yeldersley Lane as the new link road and associated congestion will encourage vehicles to turn onto Yeldersley Lane.

5.4. Ashbourne Town Council: Object
Whilst the Town Council see the need for better access this is a dangerous position due to its close proximity to a dangerous crossroads that sees a high volume of accidents / fatalities. The scheme should have appropriate regard to Great Crested Newts and the Dingy Skipper. There is a lack of evidence of the scale of employment development which is proposed.

5.5 Development Control Archaeologist
The site should be seen in the context of the wider site previously considered. Conditions were recommended in relation to that site requiring evaluation and mitigation because of the potential for previously undiscovered archaeological remains – particularly prehistoric burial mounds.

Suggest that evaluation is carried out before the submission of reserved matters which would then allow for evaluation and to inform recording / mitigation. A condition is suggested to cover this.

5.6 County Minerals:
The proposal would not impact adversely on minerals safeguarding interests.

5.7 Economic Development Manager
Ashbourne Airfield is a key employment site for Derbyshire Dales with 80 businesses and over 2,000 employees.
The top priority in the Corporate Plan is to increase business growth and job creation. Ashbourne Airfield is identified as one of six sites for economic growth with the Economic Plan 2014-2019.

Officers are aware of businesses on the airfield being forced to consider relocation due to lack of available space. The early provision of enabling infrastructure (the link road is subject of a LEP funding submission to accelerate delivery of employment land) therefore remains key to safeguarding local jobs, enabling business expansion and attracting new employers.

The employment land to be opened up is allocated in the emerging Local Plan and will help meet the recent Objective Assessment of Need (September 2015).

The site has a resolution to grant planning permission for 8ha of employment land, 367 houses and ancillary commercial and community facilities.

The strategic context gives a clear direction to the need to facilitate jobs and growth and the new link road and access to the A52 are central to catalysing development. The access road provides suitable hammer head junctions to access the industrial land suitable for B1, B2 and B8 usage.

In addition the proposal links through to Blenheim Road and in creating this through route it is anticipated that traffic congestion will be reduced at the existing single access.

The application is supported and the Economic Development Team wish to see the delivery of the employment land at the earliest opportunity.

6. REPRESENTATIONS RECEIVED

6.1 Two letters of objection raising the following points:

1. The entrance is too close to the houses at Osmaston crossroads.
2. The access will hinder the flow of traffic on the A52.
3. The traffic surveys do not reflect current usage.
4. No allowance has been made in calculations for other developments approved recently.
5. Traffic will back up to Osmaston crossroads due to traffic lights and this will lead to noise, pollution and intrusion to privacy of these dwellings.
6. Noise from lorries braking will impact on amenity and traffic approaching from the east will be put at risk by stationary traffic.
7. Traffic will try to circumvent queues by going through Osmaston. This will impact upon safety at school.
8. Previous siting of temporary traffic controls on the A52 near Osmaston crossroads demonstrates that traffic congestion will cause a problem.
9. The access is on a dangerous winding section of road.
10. The link road access would be better sited to come out onto Ladyhole Lane as this emerges at an existing well known junction.
11. The link road will become a shortcut for heavy lorries.

7. OFFICER APPRAISAL

Planning History

7.1 As is apparent from the site history the Local Planning Authority have previously considered an outline application for the comprehensive redevelopment of nearly 40 hectares of land to the southeast of Ashbourne Airfield for mixed employment, commercial and housing redevelopment (14/00074/OUT). That application was supported by Planning
Committee subject to the completion of a legal agreement to cover a range of matters. That legal agreement has been the subject of protracted negotiations and is now close to completion but still not sealed. As such the permission has yet to be issued.

7.2 The resolution to support the application was made having full regard to the planning circumstances at that moment in time. Although the 2005 Local Plan only allocated the western fringe of the development site for employment purposes and the remainder of the site lay outside the settlement Framework Boundary, the evidence base of the then emerging Local Plan had recognised the need to release both substantial employment land and housing land and this had manifested itself in a draft allocation of the site for these purposes. The then emerging Local Plan was of course subsequently withdrawn from consideration on the basis of the inadequate provision of housing land and the requirement for further detailed analysis / public consultation on how the Council would seek to achieve its objectively assessed need for housing.

7.3 The emerging Local Plan was withdrawn in autumn 2014 ahead of consideration of application 14/00074/OUT at Committee. Notwithstanding this, having full regard to the absence of a 5 year housing land supply, the need to allocate substantial areas of land outside settlements to meet the indicative figure of 6,500 identified by the Inquiry Inspector, the requirement to release substantial employment sites to meet need and given the detailed analysis of sustainability in the Officer Report, it was resolved that the development was broadly compliant with saved policies in the Local Plan and NPPF and warranted support on this basis.

Principle of Development

7.4 The current proposal is clearly linked to the earlier scheme which Committee resolved to support. The Council have since the withdrawal of the previous emerging Local Plan been preparing an updated evidence base on need for housing and employment land and analysing the options put forward for meeting these needs. This process has recently resulted in the publication of the Derbyshire Dales Local Plan Draft Plan April 2016. The policies of this draft plan have only limited weight in the determination of an application at this stage but what they do illustrate is the clear direction of travel in terms of the overall figures which need to be met and the Council’s preferred options for meeting these needs.

7.5 The resolution to grant permission for application 14/00074 has fed into the proposed settlement Framework Boundary which now incorporates the application site for that application. The provision of the housing identified has fed into the Council’s calculation of housing land supply. In addition a wider site to the north is proposed for mixed use of 1,100 dwellings, 6 hectares of employment land and community facilities. This draft allocation has no weight at this moment in time and should not cloud the consideration of this application.

7.6 Whilst the adopted Local Plan would normally be the primary basis for assessing this application the former resolution of Committee to grant permission clearly forms the current baseline for assessing the merits of the scheme.

7.7 The proposal gives a full detailed specification for the access road linking through from the A52 to Blenheim Road. Should the scheme be supported it will only allow the access road to be constructed. It will not of itself permit the construction of the housing or employment land it is designed to serve which, when the outline permission (14/0074/OUT) is finally granted, will then need to be the subject of reserved matters submissions.

7.8 The fully specified design of the access road would allow for its whole length to be constructed as the initial phase of the project and as such as can be gauged from the comments of the Economic Development Manager it is being promoted and supported as a means of delivering the benefits of economic development and employment. The
The accelerated provision of the access road will deliver many of the benefits of the wider scheme early in the process without any disbenefits over and above those associated with the wider scheme. As such, it is on this basis and in line with the earlier resolution of Committee considered acceptable in principle.

**Highway Safety**

7.9. The point of access proposed onto the A52 is the same as that promoted for the outline application (14/00074/OUT). The Local Highway Authority consider this to be acceptable. The formation of the access introduces a traffic controlled junction and widening of the A52 carriageway to create a right turn harbourage. As can be gauged from the comments of the Parish / Town Councils there remains concern that this is not a safe point on the A52 to create an access and it will, because of its proximity to the Osmaston crossroads, lead to highway safety problems and traffic diversion. Whilst these concerns are entirely understandable the Local Highway Authority have fully appraised the scheme and consider that it provides an acceptable form of access to serve the expansion of the airfield in the manner envisaged by application 14/00074/OUT. Some of the finer points of detail on the junction design were still being worked on at the time of report preparation but the Local Highway Authority have confirmed support for the scheme and a full set of conditions will be presented to Committee.

It is also important to ensure that the access road proposed is capable of creating a safe route of appropriate dimensions to serve the intended uses. In this regard, the Local Highway Authority are satisfied that the route is adequate to serve the needs of the adjoining land and can be constructed in a manner which allows for subsequent adoption. They are happy to impose conditions on the proposal and a full list will be presented to Committee.

**Residential Amenity**

7.10 The new link road facilitates the provision of the mixed scheme of employment and residential and also provides an alternative route out for traffic from Ashbourne Airfield Industrial Estate. This clearly has the potential to have some impact on the amenity of those dwellings on the A52 and along Yeldersley Lane. However, these matters were fully considered in assessing the outline application and whilst the current scheme may allow for earlier delivery of the road it is not considered that the overall nature of those affects will be materially different. On this basis, the impact on amenity is not a substantive reason to resist this development.

**Other Matters**

7.11 The site overall has potential for archaeology. The submission and the earlier application have been subject to detailed assessment by the Development Control Archaeologist. On the basis of the submitted information he is comfortable with conditions being imposed.

7.12 The earlier application was the subject of detailed ecological assessment. Of particular interest were Lapwing, Skylark and the earlier scheme secures appropriate mitigation. Whilst it is clearly necessary to assess this scheme for its impacts the actual ecological interest on the route of the access road is limited. The important bird species utilise land to the north and the ponds and woodland habitat are at the northern boundary of the wider site. Reference has been made to the Dingy Skipper butterfly but again the recorded siting is at the far eastern extremity of the site away from the route. On the basis of the above, it is considered that the development has no significant ecological impacts that cannot be addressed by mitigation.

7.13. The applicants have submitted a drainage strategy for the road. In line with the findings on the wider application it is considered that the site can be safely drained.

**The Planning Balance / Conclusion**
7.14 The Council have previously resolved to support a substantial new employment and housing site in this locality. This application provides a fully detailed specification of the access road which, if approved, allow for its early delivery and linkage with Blenheim Road. This will bring forward the main economic and employment benefits of the wider scheme. In the absence of any substantive new planning issues arising since the wider scheme was supported and having regard to the positive balance previously struck for the sustainable expansion of Ashbourne, it is considered that the proposal should be granted planning permission subject to conditions.

8. RECOMMENDATION
Planning permission be granted subject to the following conditions.

1. Condition ST02a: Time Limit on Full
2. Condition ST06: Amended Application (Revised Plans)
3. Prior to commencement of development a detailed scheme of ecological mitigation specific to the route of the access road and immediate surroundings shall be submitted to and agreed to in writing by the Local Planning Authority. The mitigation shall then be carried out in accordance with the approved scheme.
4. Conditions required by the Local Highway Authority.

Reasons:

1. Reason ST02a
2. Reason ST06
3. To ensure the ecological interest of the site is appropriately safeguarded.
4. Reasons for highway conditions.

NOTES TO APPLICANT:

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to the design of the road, its connection to the adopted highway and the detailing of the junction with the A52.

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

### Ashbourne North

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Location</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/13/00095</td>
<td>Unauthorised alterations to listed buildings - 15 - 17 Church St, Ashbourne, Derbyshire DE6 1AE</td>
<td>Bagshaw Agricultural Vine House 15 Church Street Ashbourne Derbyshire DE6 1AE</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/14/00071</td>
<td>Unauthorised building works to facilitate a Biomass Boiler and affecting the setting of a listed building.</td>
<td>Sturston Hall Farm Mill Lane Sturston Derbyshire DE6 1LN</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00014</td>
<td>Unauthorised alterations to listed building. Installation of photovoltaic panels on roof slope - Sturston Hall Farm, Ashbourne, DE6 1LN</td>
<td>Sturston Hall Farm Mill Lane Sturston Derbyshire DE6 1LN</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00035</td>
<td>Unauthorised signage and paintwork</td>
<td>Drink Zone Plus Ground Floor 5B St John Street Ashbourne Derbyshire DE6 1GP</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00072</td>
<td>Unauthorised change of use of ancillary residential accommodation to self contained holiday cottage and change of use of agricultural land to domestic curtilage</td>
<td>Parkfield House Farm Kniveton Lane Offcote Derbyshire DE6 1JQ</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00085</td>
<td>Unauthorised alterations to a listed building comprising of the alterations to the shop front, painting, signage and lighting.</td>
<td>Abode Unit 1 1 Market Place Ashbourne Derbyshire DE6 1GP</td>
<td>Pending Consideration</td>
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### Ashbourne South

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<tr>
<td>ENF/14/00070</td>
<td>Unauthorised internally illuminated signage above front of restaurant - 25 Dig Street, Ashbourne, DE6 1GF</td>
<td>25 Dig Street Ashbourne Derbyshire DE6 1GF</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00031</td>
<td>Breach of condition 9 relating to planning permission 14/00722/FUL - specifically the environmental and construction management plan and hours of site work.</td>
<td>Land Formerly Hillside Farm Wyaston Road Ashbourne Derbyshire DE6 1NB</td>
<td>Pending Consideration</td>
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### Brailsford

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<tr>
<td>ENF/15/00021</td>
<td>Unauthorised change of use of land from agricultural to domestic. Engineering works to remove trees and hedging to facilitate hardstanding area including the erection of a boundary fence in excess of 1m high adjacent to a classified vehicular highway.</td>
<td>Orchard Cottage Longford Lane Longford Derbyshire DE6 3DT</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00097</td>
<td>Unauthorised construction of timber cabin and subsequent occupation as a dwelling house with associated use of land as domestic curtilage.</td>
<td>Aragorn Cabin Mercaston Lane Mercaston Derbyshire</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/16/00033</td>
<td>Breach of condition 16 (hours of work) of planning permission 13/00826/FUL - Land off Luke Lane Brailsford</td>
<td>Land Off Luke Lane Luke Lane Brailsford Derbyshire</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00108</td>
<td>Non compliance with approved plans &quot;Erection of two dwellings&quot; at Peakland View, Darley Dale, office code 14/00300/FUL</td>
<td>Robinsons Limited Longcliffe Works Longcliffe Brassington Derbyshire DE4 4HN</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/16/00026</td>
<td>Unauthorised engineering works to facilitate access track on land adjacent to Brassington Lane between Brassington and Bradbourne.</td>
<td>Overfields Quarry Pasture Lane Brassington Derbyshire</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/16/00034</td>
<td>Unauthorised erection of Dog kennels</td>
<td>Four Lane Ends Farm Gibfield Lane Hulland Ward Derbyshire DE6 3EJ</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00106</td>
<td>Unauthorised signs on land at Riverside Retail Park and Ashbourne Golf Club.</td>
<td>Waterside Park Waterside Road Ashbourne Derbyshire</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/12/00034</td>
<td>Unauthorised demolition of a Listed wall and unauthorised access off the A6 at Dale Road North Darley Dale.</td>
<td>Stancliffe Quarry, Darley Dale, Matlock.</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/12/00092</td>
<td>Unauthorised building works and siting of caravan on land at junction of Back Lane and Flash Lane, Darley Moor, Matlock.</td>
<td>Land At Junction Of Back Lane And Flash Lane Darley Moor Matlock Derbyshire</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/13/00022</td>
<td>Expiration of temporary planning permission. Erection of mobile home/chalet for agricultural worker for a temporary period of 3 years and retention of existing amenity building/office.</td>
<td>Woodside Farm Buildings Back Lane Darley Moor Matlock Derbyshire DE4 5LP</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00034</td>
<td>Stationing of a caravan on land for suspected residential purposes and the use of an agricultural building for the keeping of horses.</td>
<td>Land At The Junction Of Back Lane And Flash Lane, Darley Moor, Matlock.</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/15/00100</td>
<td>Erection of a wooden building for use as a dog grooming salon.</td>
<td>Woodville Northwood Avenue Darley Dale Derbyshire DE4 2GD</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00005</td>
<td>Use of a domestic garage/premises to run a chemical paint stripping business.</td>
<td>6 Sunnyside Terrace Farley Hill Matlock Derbyshire DE4 5LT</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00042</td>
<td>Unauthorised internally illuminated advertisement.</td>
<td>Valley Lodge Nursing Home Bakewell Road Matlock Derbyshire DE4 3BN</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>Reference</td>
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<tr>
<td>ENF/15/00065</td>
<td>Alleged change of use of pub car park to use for the stationing of vehicular mobile homes.</td>
<td>Okeover Arms Mapleton Road Mapleton Derbyshire DE6 2AB</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00092</td>
<td>The unauthorised erection of a timber cabin for the purposes of human habitation. The Cabin, Laburnham Cottage, Mapleton.</td>
<td>Laburnum Cottage Mapleton Road Mapleton Derbyshire DE6 2AB</td>
<td>Pending Consideration</td>
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<tr>
<td><strong>Doveridge And Sudbury</strong></td>
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</tr>
<tr>
<td>ENF/13/00019</td>
<td>Unlawful siting of caravan for human habitation in agricultural field adjacent to Marston Lane at Doveridge.</td>
<td>Land North East Of Holmlea Farm Bungalow Marston Lane Doveridge Derbyshire</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/14/00085</td>
<td>Unauthorised building works due to failing to discharge pre commencement condition 2 of planning permission 14/00577/FUL - First floor extension to bungalow.</td>
<td>Cuthberts Bank Church Lane Doveridge Derbyshire DE6 5NN</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00001</td>
<td>Unauthorised breach of condition 11 of planning permission 08/00520/FUL - Conversion of barn to holiday let.</td>
<td>Somersal House Bowling Alley Lane Somersal Herbert Derbyshire DE6 5PD</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00039</td>
<td>Unauthorised change of use of agricultural outbuildings to office/business use.</td>
<td>Hunters Croft Upwoods Road Doveridge Derbyshire DE6 5LL</td>
<td>Pending Consideration</td>
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<tr>
<td><strong>Hulland</strong></td>
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<tr>
<td>ENF/14/00041</td>
<td>Breach of condition 2 relating to planning permission 10/00812/TEMP - Provision of temporary access for a period of 2 years - Redmire Gap, Intakes Lane, Turnditch, Derbyshire DE56 2LU</td>
<td>Redmire Gap Intakes Lane Turnditch Derbyshire DE56 2LU</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00004</td>
<td>Unauthorised engineering works including substantive excavation on land at Common Farm.</td>
<td>Common Farm Mugginton Lane End Weston Underwood Ashbourne Derbyshire DE6 4PP</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00024</td>
<td>Unauthorised change of use of holiday cabins to dwelling.</td>
<td>Blackbrook Lodge Farm Intakes Lane Turnditch Derbyshire DE56 2LU</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00043</td>
<td>Unauthorised engineering works on land at Whinney Hill Farm</td>
<td>Winney Hill Farm Hob Lane Kirk Ireton Derbyshire DE6 3LG</td>
<td>Pending Consideration</td>
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<td><strong>Masson</strong></td>
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<tr>
<td>ENF/11/00083</td>
<td>Unauthorised rebuilding of retaining wall.</td>
<td>24 Chapel Hill Cromford Derbyshire DE4 3QG</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/13/00108</td>
<td>Unauthorised works to Grade II Listed Building</td>
<td>Corn Mill Cottage Water Lane Cromford Derbyshire DE4 3QH</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00052</td>
<td>Installation of plastic windows in a listed building.</td>
<td>101 The Hill Cromford Derbyshire DE4 3QU</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00054</td>
<td>Unauthorised alterations to a Grade II Listed Building.</td>
<td>Rita's Fish Bar 182 South Parade Matlock Bath Derbyshire DE4 3NR</td>
<td>Pending Consideration</td>
</tr>
<tr>
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<tr>
<td>ENF/15/00060</td>
<td>Unauthorised installation of two roof-lights and flue on the rear roof slope.</td>
<td>Swifts Cottage 15 The Hill Cromford Derbyshire DE4 3RF</td>
<td>Notice Issued</td>
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<tr>
<td>ENF/15/00063</td>
<td>Alterations to a Listed Building</td>
<td>26 North Street Cromford Derbyshire DE4 3RG</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/15/00104</td>
<td>Unauthorised internal works and demolition of external boundary wall.</td>
<td>Mill Managers House Cromford Mill Mill Road Cromford Derbyshire DE4 3RQ</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00105</td>
<td>Unauthorised engineering operations to create extra parking/turning area.</td>
<td>G P Produce The Hill Cromford Derbyshire DE4 3QL</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00024</td>
<td>Unauthorised occupation of holiday let as residential dwelling.</td>
<td>The Farrows Chestnut Farm Abel Lane Bonsall Derbyshire</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00028</td>
<td>Unauthorised erection of fence within the curtilage, at the rear, of a Grade II Listed Building.</td>
<td>86 The Hill Cromford Derbyshire DE4 3QU</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00037</td>
<td>Unauthorised extension to property.</td>
<td>1 Water Lane Cromford Derbyshire DE4 3QH</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00039</td>
<td>Problem beginning to cause damage and staining to the historic fabric of a Listed Building</td>
<td>Greyhound Hotel Market Place Cromford Derbyshire DE4 3QE</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00041</td>
<td>Unauthorised instalation of plastic windows and door.</td>
<td>2,4,6 North Parade Matlock Bath Derbyshire DE4 3NS</td>
<td>Pending Consideration</td>
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**Matlock All Saints**

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<tr>
<td>ENF/14/00006</td>
<td>Unauthorised change of use from domestic curtilage to use as commercial car park relating to Parkside Fitness</td>
<td>5 Olde Englishe Road Matlock Derbyshire DE4 3RR</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00030</td>
<td>Unauthorised &quot;PELI&quot; advertisement</td>
<td>Peli Deli 6 Crown Square Matlock Derbyshire DE4 3AT</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00087</td>
<td>Breach of conditions on planning application number 14/00493/FUL</td>
<td>10 Imperial Road Matlock Derbyshire DE4 3NL</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00014</td>
<td>Unauthorised fencing/decking to the side and rear with associated engineering operations.</td>
<td>38 Megdale Matlock Derbyshire DE4 3JW</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00015</td>
<td>Breach of condition 2 on planning permission (office code) 13/00005/FUL.</td>
<td>19 Dale Road Matlock Derbyshire DE4 3LT</td>
<td>Pending Consideration</td>
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<tr>
<td>ENF/16/00038</td>
<td>Unauthorised erection of fences and alleged car sales business.</td>
<td>2 Bentley Close Matlock Derbyshire DE4 3GF</td>
<td>Pending Consideration</td>
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**Matlock St Giles**

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<tr>
<td>ENF/13/00084</td>
<td>Unauthorised erection of workshop</td>
<td>Phillips Woodware Smuse Lane Matlock Derbyshire DE4 5EY</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00083</td>
<td>Non compliance with pre-commencement conditions attached to planning permission (15/00453/FUL)</td>
<td>Gate Inn The Knoll Tansley Derbyshire DE4 5FN</td>
<td>Pending Consideration</td>
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<tr>
<td>Reference</td>
<td>Description</td>
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<tr>
<td>ENF/15/00088</td>
<td>Unauthorised play equipment at The Gate Inn, Tansley.</td>
<td>Gate Inn The Knoll Tansley Derbyshire DE4 5FN</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00098</td>
<td>Unauthorised engineering operations on fields to the South West of Derwent Treescapes.</td>
<td>Derwent Treescapes Limited Deep Carr Lane Matlock Derbyshire DE4 3NQ</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00002</td>
<td>Erection of wooden structure building and untidy site consisting of the storage of pipes, pipe fittings, buckets, plastic containers, burnt materials, old car parts, old toilet seat, steel frames, bags of waste and discarded household materials.</td>
<td>55 Church Street Matlock Derbyshire DE4 3BY</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00018</td>
<td>Unauthorised extensions to existing stables and field shelter.</td>
<td>Land To The West Of Three Lanes End Whitelea Lane Tansley Derbyshire</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00025</td>
<td>1/ Unauthorised engineering operations to create an earth bund and storage of materials behind it. 2/ Rearrangement of existing bund.</td>
<td>Land Off Alders Lane, Tansley.</td>
<td>Pending Consideration</td>
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**Norbury**

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<tbody>
<tr>
<td>ENF/11/00091</td>
<td>Untidy site - storage of scrap materials (Timber, metal, pipes, bricks, slates, gravel etc), old vehicles and caravans in a state of disrepair. Land at Marston House Farm and Home Farm, Thurvaston Road, Marston Montgomery, Ashbourne, Derbyshire, DE6 2FF</td>
<td>Home Farm Thurvaston Road Marston Montgomery Derbyshire DE6 2FF</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/13/00050</td>
<td>Unauthorised building works to an agricultural building. (Increasing the height).</td>
<td>Barn Opposite Field Cottage Finny Lane Rodsley Derbyshire</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/14/00030</td>
<td>Change of use of land from use for Microlight flying to use for the flying of Biplane aircraft.</td>
<td>Airways Airsports Darley Moor Airfield Darley Moor Ashbourne Derbyshire DE6 2ET</td>
<td>Pending Consideration</td>
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**Stanton**

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<tr>
<td>ENF/15/00008</td>
<td>Rebuilding a roadside wall and the use of part of an agricultural building.</td>
<td>103 Northwood Lane Darley Dale Derbyshire DE4 2HS</td>
<td>Pending Consideration</td>
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**Wirksworth**

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<tbody>
<tr>
<td>ENF/15/00019</td>
<td>Unauthorised erection of a timber built Mess Room, Office, Wash Room, Storage and Livestock Building.</td>
<td>Sleepy Hollow Farm Hopton Lane Wirksworth Derbyshire DE4 4DF</td>
<td>Notice Issued</td>
</tr>
<tr>
<td>ENF/15/00068</td>
<td>Unauthorised change of use of land for the stationing of a caravan for residential purposes, the erection of a small timber building and the erection of a polly tunnel and portaloo.</td>
<td>Peak View Caravan Site Brassington Lane Wirksworth Derbyshire</td>
<td>Notice Issued</td>
</tr>
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<tr>
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<tr>
<td>ENF/15/00079</td>
<td>Works to a Listed Building</td>
<td>14 Market Place Wirksworth Derbyshire DE4 4ET</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/15/00082</td>
<td>Unauthorised engineering operations.</td>
<td>Land Off Oakerthorpe Road Bolehill Derbyshire</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00040</td>
<td>Unauthorised satellite dish.</td>
<td>21 North End Wirksworth Derbyshire DE4 4FG</td>
<td>Pending Consideration</td>
</tr>
<tr>
<td>ENF/16/00045</td>
<td>Change of use of land from agricultural to caravan site and domestic curtiage (for stationing of childrens play equipment). Land to the rear of Ladycroft, Wash Green, Wirksworth, DE4 4FD</td>
<td>Ladycroft Wash Green Wirksworth Derbyshire DE4 4FD</td>
<td>Pending Consideration</td>
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</tbody>
</table>

| Total Open Cases | 69 |
### Ashbourne North

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Description</th>
<th>Location</th>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/15/00067</td>
<td>Alleged change in the use of a piece of land to the rear of plot 1 at St Oswalds Crescent.</td>
<td>8 Spire Close Ashbourne Derbyshire DE6 1DB</td>
<td>Planning Application Received</td>
<td>23/03/2016</td>
</tr>
<tr>
<td>ENF/16/00027</td>
<td>Alleged unauthorised works to roof, brickwork and sound insulation measures.</td>
<td>The Old Pine Store Coxons Yard Ashbourne Derbyshire DE6 1FG</td>
<td>Complaint Unfounded</td>
<td>04/03/2016</td>
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### Ashbourne South

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Description</th>
<th>Location</th>
<th>Action</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>ENF/13/00012</td>
<td>Breach of Condition 20 of planning permission 07/00842/FUL - Formation of car park and memorial sculpture garden/public open space. Land At Junction Of A52/Mayfield Road, Ashbourne, Derbyshire</td>
<td>Land At Junction Of A52/Mayfield Road Car Park Mayfield Road Ashbourne Derbyshire</td>
<td>Justification from Officer</td>
<td>29/03/2016</td>
</tr>
<tr>
<td>ENF/15/00007</td>
<td>Breach of Condition 2 relating to listed building consent - 13/00705/LBALT External alterations - re-roofing - Unit 3 Former House of Correction, Derby Road, Ashbourne, Derbyshire for Mr Michael Webster.</td>
<td>Unit 3 Former House Of Correction Derby Road Ashbourne Derbyshire DE6 1BE</td>
<td>Complied Voluntarily</td>
<td>01/03/2016</td>
</tr>
<tr>
<td>ENF/16/00016</td>
<td>Alleged building in addition to that approved</td>
<td>Land To The East Of Lodge Farm Chase Ashbourne Derbyshire</td>
<td>Complaint Unfounded</td>
<td>05/02/2016</td>
</tr>
<tr>
<td>ENF/16/00022</td>
<td>Alleged unauthorised removal of trees and hedges to the rear of 15 South St Ashbourne</td>
<td>Land To The Rear Of 15 South Street Ashbourne Derbyshire DE6 1DP</td>
<td>Complaint Unfounded</td>
<td>25/02/2016</td>
</tr>
<tr>
<td>ENF/16/00044</td>
<td>Breach of pre-commencement planning condition relating to planning permission 16/00048/FUL - Erection of building for nutrition and exercise coaching (use class D2) - Mr A Kent</td>
<td>Unit 4 Wellington Place Blenheim Road Airfield Industrial Estate Ashbourne Derbyshire DE6 1HA</td>
<td>Complied Voluntarily</td>
<td>26/04/2016</td>
</tr>
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</table>

### Brailsford

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Description</th>
<th>Location</th>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/14/00073</td>
<td>Failing to maintain a farmyard wall attached to a listed building.</td>
<td>Churchfields Farm Brailsford Derbyshire DE6 3BW</td>
<td>Planning Application Received</td>
<td>06/01/2016</td>
</tr>
<tr>
<td>ENF/15/00029</td>
<td>Unauthorised change of use of agricultural building to use as stables and livery.</td>
<td>The Old Drifthouse Park Stiles Farm Park Lane Rodsley Derbyshire DE6 3AJ</td>
<td>Planning Application Received</td>
<td>15/01/2016</td>
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<tr>
<td>Case Number</td>
<td>Description</td>
<td>Address</td>
<td>Decision</td>
<td>Date</td>
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<tr>
<td>ENF/16/00010</td>
<td>Unauthorised change of use of an agricultural building, shown in red on the attached plan, to a commercial/storage and distribution use.</td>
<td>School Farm Back Lane Hollington Derbyshire DE6 3GA</td>
<td>Complaint Unfounded</td>
<td>06/05/2016</td>
</tr>
<tr>
<td>ENF/16/00020</td>
<td>Alleged engineering works to facilitate an access track on land belonging to Dam Farm at Brailsford</td>
<td>Former Dam Farm House Yeldersley Lane Ednaston Derbyshire DE6 3BA</td>
<td>Complaint Unfounded</td>
<td>18/02/2016</td>
</tr>
<tr>
<td><strong>Carsington Water</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ENF/16/00023</td>
<td>Alleged unauthorised internal alterations to a listed building - removal of internal wall and Inglenook Fireplace.</td>
<td>The Glebe House Back Lane Carsington Derbyshire DE4 4DE</td>
<td>Complaint Unfounded</td>
<td>26/02/2016</td>
</tr>
<tr>
<td><strong>Clifton And Bradley</strong></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>ENF/15/00111</td>
<td>Unauthorised siting of caravans on land adjacent to A515, Ashbourne.</td>
<td>Barn To The South Of Halfway House Clifton Road Clifton Derbyshire</td>
<td>Complied Voluntarily</td>
<td>11/01/2016</td>
</tr>
<tr>
<td>ENF/16/00007</td>
<td>Alleged breach of condition 3 relating to planning permission 15/00581/FUL - Change of use of land from agricultural to equestrian and erection of hay store and field shelter (Retrospective)</td>
<td>Woodways 6 Council Houses Yew Tree Lane Bradley Derbyshire DE6 1PG</td>
<td>Complied Voluntarily</td>
<td>08/02/2016</td>
</tr>
<tr>
<td>ENF/16/00009</td>
<td>Breach of pre-commencement conditions relating to planning permission 15/00757/FUL - Extension to hatchery building and associated works (modifications of 15/00397/FUL) - Moy Park Hatchery, Cockshead Lane, Snelston, Derbyshire for Mr Wayne Shepherd.</td>
<td>Moy Park Hatchery Cockshead Lane Snelston Derbyshire DE6 2DP</td>
<td>Complied Voluntarily</td>
<td>04/05/2016</td>
</tr>
<tr>
<td>ENF/16/00012</td>
<td>Alleged occupied caravans on this site</td>
<td>Lady Hole Farm Lady Hole Lane Yeldersley Derbyshire DE6 1LR</td>
<td>Complaint Unfounded</td>
<td>27/01/2016</td>
</tr>
<tr>
<td>ENF/16/00017</td>
<td>Unauthorised creation of hardstanding area and vehicular access onto a classified road.</td>
<td>Land Of Former Wesleyan Methodist Chapel Mill Lane Shirley Derbyshire</td>
<td>Complied Voluntarily</td>
<td>09/03/2016</td>
</tr>
<tr>
<td><strong>Darley Dale</strong></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>ENF/15/00006</td>
<td>Alterations to a Listed Building</td>
<td>Farley Farm Farley Lane Farley Derbyshire DE4 5LR</td>
<td>Not in the Public interest to pursue</td>
<td>17/02/2016</td>
</tr>
</tbody>
</table>
### Hulland

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Location</th>
<th>Status</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/16/00029</td>
<td>Alleged discrepancy on approved plans (application 15/00550/FUL)</td>
<td>Holt Brook House Ladygrove Road Two Dales Derbyshire DE4 2FG</td>
<td>Not in the Public interest to pursue</td>
<td>30/03/2016</td>
</tr>
<tr>
<td>ENF/15/00073</td>
<td>Unauthorised building/engineering works to extend a barn at Old Field Farm, Fields Lane, Kirk Ireton.</td>
<td>Land Off Field Lane Kirk Ireton Derbyshire</td>
<td>Complied Voluntarily</td>
<td>16/12/2015</td>
</tr>
<tr>
<td>ENF/15/00103</td>
<td>Unauthorised erection of street lighting on land at UK Waterproofing Solutions Ltd, Windmill Farm, Biggin Lane, Ashbourne. DE6 3FN</td>
<td>UK Waterproofing Solutions Ltd Windmill Farm Biggin Lane Biggin Ashbourne Derbyshire DE6 3FN</td>
<td>Complied Voluntarily</td>
<td>15/12/2015</td>
</tr>
<tr>
<td>ENF/15/00109</td>
<td>Unauthorised caravan and steel frame polly tunnel on Land adjacent to Nether Lane, Biggin by Hulland.</td>
<td>Land To The East Of Innisfree Nether Lane Biggin Ashbourne Derbyshire</td>
<td>Complied Voluntarily</td>
<td>08/02/2016</td>
</tr>
<tr>
<td>ENF/16/00013</td>
<td>Demolition of outbuilding, The Old Cottage, Main Street, Kirk Ireton - ref 15/00685/DEM</td>
<td>The Old Cottage Main Street Kirk Ireton Derbyshire DE6 3LD</td>
<td>Complaint Unfounded</td>
<td>28/01/2016</td>
</tr>
<tr>
<td>ENF/16/00021</td>
<td>Erection of floodlights on site, without planning permission</td>
<td>Smith Hall Farm Smith Hall Lane Hulland Ward Derbyshire DE6 3ES</td>
<td>Complied Voluntarily</td>
<td>24/02/2016</td>
</tr>
<tr>
<td>ENF/16/00030</td>
<td>Failure to discharge pre-commencement conditions relating to planning permission 15/00418/FUL - Rebuilding of demolished barn for ancillary residential purposes and associated change of use of land</td>
<td>Upper Barn Sitch Farm Sitch Lane Kirk Ireton Derbyshire DE6 3JY</td>
<td>Complaint Unfounded</td>
<td>06/04/2016</td>
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</tbody>
</table>

### Masson

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Location</th>
<th>Status</th>
<th>Date</th>
</tr>
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<tbody>
<tr>
<td>ENF/14/00016</td>
<td>Unauthorised Advertisements.</td>
<td>Royal Bank Buildings Temple Road Matlock Bath Derbyshire DE4 3PG</td>
<td>Complied Voluntarily</td>
<td>19/04/2016</td>
</tr>
<tr>
<td>ENF/15/00077</td>
<td>Unauthorised erection of conservatory.</td>
<td>2 Hillcrest Uppertown Lane Bonsall Derbyshire DE4 2AW</td>
<td>Planning Application Received</td>
<td>18/01/2016</td>
</tr>
<tr>
<td>ENF/15/00080</td>
<td>Unauthorised front extension.</td>
<td>36 Ridgewood Drive Cromford Derbyshire DE4 3RJ</td>
<td>Planning Application Received</td>
<td>25/01/2016</td>
</tr>
<tr>
<td>ENF/15/00102</td>
<td>Unauthorised estate agent boards at the junction of Alabaster Lane and Cromford Hill</td>
<td>The Hill Cromford Derbyshire DE4 3QL</td>
<td>Complied Voluntarily</td>
<td>23/11/2015</td>
</tr>
<tr>
<td>ENF/16/00003</td>
<td>Unauthorised banner advertisements.</td>
<td>Princess Victoria Public House 174 - 176 South Parade Matlock Bath Derbyshire DE4 3NR</td>
<td>Complied Voluntarily</td>
<td>17/02/2016</td>
</tr>
<tr>
<td>ENF/16/00004</td>
<td>Unauthorised advertisements</td>
<td>Masson Mills (Buildings/Facilities Manager) Derby Road Matlock Bath Derbyshire DE4 3PY</td>
<td>Complied Voluntarily</td>
<td>16/02/2016</td>
</tr>
<tr>
<td>ENF/15/00086</td>
<td>Use of residential premises as a storage facility for HGV, digger and other materials in connection with a paving business.</td>
<td>The Woodlands 61 Wellington Street Matlock Derbyshire DE4 3GS</td>
<td>Complied Voluntarily</td>
<td>20/01/2016</td>
</tr>
<tr>
<td>------------</td>
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<td>--------------</td>
</tr>
<tr>
<td>ENF/16/00019</td>
<td>Alleged unauthorised removal of trees and terracing</td>
<td>6 Rockside Mews Wellington Street Matlock Derbyshire DE4 3RW</td>
<td>Complaint Unfounded</td>
<td>17/02/2016</td>
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</tbody>
</table>

**Matlock St Giles**

<table>
<thead>
<tr>
<th>ENF/14/00077</th>
<th>Unauthorised use of land for the sitting of caravans.</th>
<th>Tansley Wood Mills Lumsdale Road Matlock</th>
<th>Complied Voluntarily</th>
<th>19/04/2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>ENF/15/00040</td>
<td>Unauthorised erection of stables, sheds and unauthorised engineering operations to create a turn out area</td>
<td>Land Off Carr Lane, Tansley.</td>
<td>Planning Application Received</td>
<td>23/11/2015</td>
</tr>
<tr>
<td>ENF/16/00011</td>
<td>Unauthorised erection of fence over 1 (one) metre in height adjacent to a highway.</td>
<td>21 Wishing Stone Way Matlock Derbyshire DE4 5LU</td>
<td>Complied Voluntarily</td>
<td>14/03/2016</td>
</tr>
<tr>
<td>ENF/16/00046</td>
<td>Alleged that the stone used for the extension is not in keeping with the rest of the property as conditioned by the planning permission 14/00360/FUL</td>
<td>Hurst Cottage 14 Bull Lane Matlock Derbyshire DE4 5LX</td>
<td>Complaint Unfounded</td>
<td>10/05/2016</td>
</tr>
<tr>
<td>ENF/16/00047</td>
<td>Alleged unauthorised extension to dwelling house and boundary fence obstruction.</td>
<td>46 Mornington Rise Matlock Derbyshire DE4 3EQ</td>
<td>Complaint Unfounded</td>
<td>13/05/2016</td>
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**Norbury**

<table>
<thead>
<tr>
<th>ENF/12/00093</th>
<th>Breach of Condition 4 - The sole means of vehicular access to the cottages shall be via the Roston Inn car park only. There shall be no direct vehicular access to the cottages from Mill Lane via the existing field access to the south of the cottages, which shall be permanently closed within three months of the date of this permission in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority. Planning permission 11/00683/VCOND. - Retension of 2 no. holiday cottages without compliance with condition 2 of planning permission DDD/1295/0757 (occupancy condition) - Roston Inn Derbyshire for Mrs L Murphy</th>
<th>Roston Inn Mill Lane Roston Derbyshire DE6 2EE</th>
<th>Appeal Allowed</th>
<th>24/11/2015</th>
</tr>
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<tbody>
<tr>
<td>ENF/15/00076</td>
<td>Unauthorised change of use of agricultural land into domestic curtilage.</td>
<td>The Westings Rodsley Lane Yeaveley Derbyshire DE6 2DT</td>
<td>Planning Application Received</td>
<td>21/01/2016</td>
</tr>
<tr>
<td>ENF/16/00008</td>
<td>Mud on road</td>
<td>Land South Of Somersal Mill Farm Grove Lane Doveridge Derbyshire</td>
<td>Complied Voluntarily</td>
<td>04/03/2016</td>
</tr>
<tr>
<td>ENF/16/00032</td>
<td>Alleged unauthorised alteration to an existing vehicular access</td>
<td>Mount Farm Marston Common Marston Montgomery Derbyshire DE6 2FH</td>
<td>Complaint Unfounded</td>
<td>22/03/2016</td>
</tr>
</tbody>
</table>
### Winster And South Darley

| ENF/15/00066 | Unauthorised wooden storage structure. | Tipsy Cottage 14 Main Road Darley Bridge Derbyshire DE4 2JY | Complied Voluntarily | 15/03/2016 |

### Wirksworth

| ENF/13/00057 | Installation of silver ventilation flues, satellite dish, condensing boiler flue and black wood burner flue. | The Malthouse 13A North End Wirksworth Derbyshire DE4 4FG | Planning Application Received | 16/11/2015 |
| ENF/15/00018 | Unauthorised change of use of roof to Balcony area associated with business | The Malthouse 13A North End Wirksworth Derbyshire DE4 4FG | Planning Application Received | 16/11/2015 |
| ENF/15/00090 | Siting of blue wooden "caravan" on agricultural land. | Whatfield Farm Blundestone Lane Longway Bank Whatstandwell Derbyshire DE4 5HU | Complied Voluntarily | 14/12/2015 |
| ENF/15/00099 | Alleged unauthorised sign. | The Wirksworth Gun Room Unit 4 Newbridge Works Coldwell Street Wirksworth Derbyshire DE4 4FB | Complaint Unfounded | 17/11/2015 |
| ENF/16/00001 | Untidy site consisting of the storage of an old mattress, bed base, car seats, fridge, old steel bed frame old carpets and other associated household waste. | 2 Cromford Road Wirksworth Derbyshire DE4 4FH | Complied Voluntarily | 01/03/2016 |
| ENF/16/00036 | Alleged unauthorised extension. | 23 Chapel Lane Middleton By Wirksworth Derbyshire DE4 4NF | Complaint Unfounded | 04/04/2016 |

**Total Closed Cases**: 50
PLANNING APPEAL – PROGRESS REPORT

Report of the Corporate Director

<table>
<thead>
<tr>
<th>REFERENCE</th>
<th>SITE/DESCRIPTION</th>
<th>TYPE</th>
<th>DECISION/COMMENT</th>
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<tbody>
<tr>
<td>Southern</td>
<td></td>
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<tr>
<td>15/00261/FUL</td>
<td>Sturston Hall Farm, Sturston, Ashbourne</td>
<td>WR</td>
<td>Appeals being processed</td>
</tr>
<tr>
<td>15/00262/LBALT</td>
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<tr>
<td>ENF/15/00014</td>
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</tr>
<tr>
<td>14/00224/FUL</td>
<td>North of Viaton Industries Ltd, Manystones Lane, Brassington</td>
<td>PI</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00615/FUL</td>
<td>Blackbrook Lodge Caravan &amp; Camping, Intakes Lane, Turnditch</td>
<td>IH</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00773/FUL</td>
<td>Skyfall, Broadway, Kirk Ireton, Ashbourne</td>
<td>WR</td>
<td>Appeal allowed – copy appeal decision attached</td>
</tr>
<tr>
<td>15/00755/FUL</td>
<td>Land off Derby Lane, Alkmonton</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>15/00062/VCOND</td>
<td>The Barn, Somersal House, Somersal Herbert</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>15/00873/OUT</td>
<td>Land adjacent to 2 Bell Villas, Derby Road, Doveridge</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00694/FUL</td>
<td>49 St John Street, Ashbourne</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00877/PDA</td>
<td>Land to the east of Innisfree, Nether Lane, Biggin</td>
<td>WR</td>
<td>Appeal being processed</td>
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<tr>
<td>15/00530/LBALT</td>
<td>Churchfields Farm, Brailsford</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00326/CLEUD</td>
<td>Aragorn Cabin, Mercaston Lane, Mercaston</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>ENF/15/00097</td>
<td>Land located at Aragorn Cabin, Mercaston Lane, Mercaston</td>
<td>WR</td>
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</table>

Central
<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Type</th>
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<tbody>
<tr>
<td>15/00276/OUT</td>
<td>Land west of Field House, Starth Lane, Tansley</td>
<td>WR</td>
<td>Appeal allowed – copy appeal decision attached</td>
</tr>
<tr>
<td>15/00642/FUL</td>
<td>The Woodyard, Homesford, Whatstandwell</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00376/FUL</td>
<td>Derwent Carpets &amp; Curtains Ltd, 67 Dale Road, Matlock</td>
<td>WR</td>
<td>Appeal allowed – copy appeal decision attached</td>
</tr>
<tr>
<td>ENF/15/00054</td>
<td>Rita’s Fish Bar, 182 South Parade, Matlock Bath</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00087/OUT</td>
<td>106 Northwood Lane, Darley Dale</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00412/FUL</td>
<td>Barnes Croft, Canterbury Road, Wirksworth</td>
<td>WR</td>
<td>Appeal dismissed – copy appeal decision attached</td>
</tr>
<tr>
<td>ENF/15/00088</td>
<td>Land at The Gate Inn, The Knoll, Tansley, Matlock and Gate Inn, The Knoll, Tansley</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>ENF/15/00082</td>
<td>Land off Oakerthorpe Road, Bolehill, Wirksworth</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>ENF/16/00002</td>
<td>55 Church Street, Matlock</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>16/00046/OUT</td>
<td>9 Eversleigh Rise, Darley Bridge</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
</tbody>
</table>

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

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decision

Site visit made on 15 March 2016

by Claire Searson  MSc PGDip BSc (Hons) MRTPI IHBC
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 April 2016

Appeal Ref: APP/P1045/W/16/3143109
Skyfall, Broad Way, Kirk Ireton, Derbyshire DE6 3LJ

- 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 D Hannak against the decision of Derbyshire Dales District Council.
- The application Ref 15/00773/FUL, dated 27 October 2015, was refused by notice dated 23 December 2015.
- The development proposed is the erection of detached dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the erection of detached dwelling at Skyfall Broad Way, Kirk Ireton, Derbyshire DE6 3LJ in accordance with the terms of the application, Ref 15/00773/FUL, dated 27 October 2015, subject to the conditions set out in the attached schedule.

Procedural Matter

2. Amended plans have been submitted as part of the appeal (ref 1131-004B Rev B and 1131-005B Rev B) to omit the bathroom projection. The Council have commented on these and have included reference in their suggested conditions. The removal of the projection is a minor alteration to the original scheme reducing its extent. No party would be prejudiced by my determining the appeal with regard to the amended plans and I have done so on this basis.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area with particular regard to the Kirk Ireton Conservation Area.

Reasons

4. The appeal site, Skyfall, is a large detached bungalow set in extensive grounds, located at the edge of Kirk Ireton on Broad Way. This property has been converted from a building housing a swimming pool. The immediate area is located away from the historic core of the village and is characterised by modern dwellings that are typically detached. These are usually single or 1½ storey, although there are 2 storey terraced houses to the north of Peats Close. There are also different densities, with the properties along Peats Close being more tightly knit and smaller scale than the fewer, larger properties along Broad Way.
5. Buildings in the area are built out of local stone, however these are a mix of architectural styles and designs. Their roof forms are pitched and gabled, with some properties orientated in parallel to the highway, and some set gable end on. Given these factors, the general character of this part of the Conservation Area is of a modern extension to the village which forms part of the historic evolution of the area. Overall within the Kirk Ireton Conservation Area there are a variety of building ages, types and architectural designs but in a unifying and consistent palette of materials.

6. The proposed development would be located on a disused tennis court, to the south of Skyfall. It would be linear in form and orientated gable end to the road. The dwelling would be single storey to the front. To the rear the dwelling would be two-storey, however due to the sloping nature of the site, it would be set into the land, resulting in the appearance of an additional half storey as viewed from Broad Way. This part of the development would form the main living accommodation, exploiting the views across the village and its surrounding countryside with large areas of glazing.

7. While I acknowledge that the 2 storey element would be higher than the ridge height of Skyfall, as it would only appear from the street as a 1½ storey building, it would be consistent with the general roof heights found in the area. Furthermore the higher element would sit behind the single storey element, and would not, as a result, appear unduly prominent in the street scene.

8. It would also be similar in scale to the large detached dwellings in the area and while it would be set at right angles to Skyfall, it would not be at odds with the overall mixed orientation of properties found in general within the Conservation Area.

9. Similarly, while the width of the appeal site would be narrower than the width of the plots along Broad Way, at around 19m wide, it would be comparable with the variety of plot sizes found within the locality and the open countryside beyond would contribute to a sense of spaciousness. Furthermore, the space between the proposed building and Skyfall would be comparable with the spacing I saw between other properties in the area, including the relatively small gap between Skyfall and Ireton Grange as well as between Denneldal and Glenworth to the west of Broad Way. I therefore find that the proposed development would not appear unduly cramped.

10. While the design details would be different from the architectural styles of the 1960’s bungalows and the converted swimming pool, I do not consider this to be harmful to the character of the Conservation Area. The overall scale and form of the dwelling would be in keeping with that of the neighbouring bungalows. In addition, as viewed from Broad Way, the design would be relatively modest, and the natural gritstone walls and Staffordshire blue clay roof tiles would provide consistency with the materials found throughout the village and the Conservation Area.

11. I acknowledge that window apertures would be large, and full length in some cases, with a vertical emphasis which is in contrast to the horizontal design of window openings found in the neighbouring dwellings. However, as evidenced within the Kirk Ireton Conservation Area Appraisal (April 2014), there is a great variety of window designs found within the village as a whole. In addition, I do not consider that the development would result in any significant increase in
light pollution, given the location of the site within the village, and the screening of this from the open countryside by the existing hedgerow.

12. In reaching this decision on the design, I am mindful that the Framework seeks to ensure good design that seeks to reinforce local distinctiveness and the historic character of an area. However it is noted that paragraph 60 of the Framework states that decisions should not impose architectural styles or particular tastes.

13. For these reasons, although of a more contemporary design to the neighbouring properties, I conclude that the proposed development would preserve the character and appearance of the Conservation Area will be preserved by the development in accordance with saved Policies SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) which seek to preserve or enhance the quality, character and local distinctiveness of the Conservation Area through appropriate design.

Other matters

14. The Parish Council and local residents also object to the proposal on a wider basis, including in respect of access, parking, planning precedent, neglect of Skyfall and adequacy of the sewerage system.

15. In respect of highway safety, the Highway Authority did not object to the proposal. Moreover, there is no evidence before me which would lead me to conclude that the proposed development would result in a significant level of harm to highway safety and I am satisfied that concerns relating to visibility and access can be addressed by condition. There is no evidence that the development would impact upon current sewerage arrangements and in any case, this would be subject to other regulatory requirements.

16. I have concluded that the proposal would be acceptable on the basis of the evidence before me and therefore the concerns regarding neglect of the property is not a matter which would justify withholding planning permission. I have considered the appeal entirely on its own merits and in light of all of the information before me. Any future proposals adjacent to the site would also need to be considered in the same manner.

17. The appeal site lies outside any defined settlement boundary where LP Policies SF4 and H4 seek to restrict development. The proposal would not meet any of the specified criteria and as such would conflict with these Policies. However, the Council acknowledges that it cannot demonstrate a 5 year supply of housing land and that in accordance with the Framework the policies cannot therefore be considered up to date.

18. It is acknowledged that the site is in a sustainable location and that the erection of a dwelling would make a contribution to housing supply, and I have found that there would be no harm to the character and appearance of the area, including the Conservation Area. Notwithstanding the conflict with LP Policies SF4 and H4, I consider there would be no adverse impacts arising from the proposal that would significantly and demonstrably outweigh the benefits. Accordingly, I conclude that it would amount to sustainable development for which the Framework carries a presumption.
Conditions

19. The Council have suggested a number of conditions which I have had regard to. In addition to the standard condition which limits the lifespan of the planning permission, I have specified the approved plans as this provides certainty. Conditions requiring the submission and prior approval of materials, design details and in respect of landscaping details and timescales are necessary in the interests of preserving the character and appearance of the Conservation Area.

20. In terms of those conditions put forward by the Highways Authority, I have specified conditions in the interests of highway safety including surface water discharge. For the same reason I have specified a combined condition for the provision of temporary access, and parking, turning, loading and unloading as these relate to works during the construction period. In the interests of ensuring adequate access and parking for highways safety, I have specified conditions regarding visibility splays and the provision of off-street parking, although I have altered the former from the suggested list to be prior to occupation, given that access during construction is conditioned separately.

21. I have not, however, imposed a condition removing permitted development rights to extend or alter the building or erect structures within its curtilage. The Framework advises that such conditions should only be imposed where there is clear justification to do so and I am not satisfied that this is necessary in order to preserve the design concept.

Conclusion

22. Having had regard to all other matters raised, it is concluded that the appeal should succeed and planning permission should be granted.

C Searson
INSPECTOR
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: 1116-003B Rev B, 1131-004B Rev B, 1116-005B Rev B and 1131-006B Rev B.

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted 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 a 2 square metre sample panel of those materials in accordance with condition 3 and including the type of pointing (mortar mix and method of application) to be used shall be erected on site for inspection. The development shall be constructed in accordance with the approved details.

5) Prior to the commencement of development, details of the materials, depth of reveal, treatment and/or colour of the window and door frames shall be submitted to and approved in writing by the Local Planning Authority. The window and door frames shall then be installed in accordance with the approved details and so retained.

6) All verges shall be given a plain mortared finish without the use of bargeboards. All rainwater goods, which shall be finished black, shall be fixed directly to the wall by means of rise and fall brackets without the use of fascia boards.

7) 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. These details shall include:
   a) details of all existing trees, hedgerows and other vegetation on the land;
   b) 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;
   c) measures for the protection of retained vegetation during the course of development;
   d) all new plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
   e) finished site levels and contours;
   f) means of enclosure, and;
   g) hard surfacing materials.

8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

9) All soft landscaping submitted in accordance with condition 7 shall be carried out in the first planting and seeding season following the first
occupation of the building or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

10) Temporary access to the site and facilities within the site shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site, storage of plant and materials, site accommodation during the period of construction in accordance with a detailed scheme to be submitted to and approved in writing by the local planning authority for approval prior to commencement of development. Once implemented the access and facilities shall be retained free from any impediment to their designated use throughout the construction period.

11) No dwelling shall be occupied until a new vehicular access is formed to Broad Way in accordance with the application drawing 1116-003B Rev B and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres in each direction measured along the nearside carriageway edge. These shall be retained throughout the life of the development. No object exceeding 1 metre in height (0.6 metres in the case of vegetation) shall be placed within the visibility sightlines.

12) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 1116-003B Rev B for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. These facilities shall thereafter be kept available at all times for those purposes.

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

Site visit made on 12 April 2016

by Y Wright  BSc (Hons) DipTP MSc DMS MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 May 2016

Appeal Ref: APP/P1045/W/15/3138585
Land to the west of Field House, Starth Lane, Tansley, Derbyshire DE4 5FD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr A Lewis against the decision of Derbyshire Dales District Council.
- The application Ref 15/00276/OUT, dated 20 April 2015, was refused by notice dated 15 July 2015.
- The development proposed is erection of one dwelling.

Decision

1. The appeal is allowed and outline planning permission is granted for erection of one dwelling at land to the west of Field House, Starth Lane, Tansley, Derbyshire DE4 5FD in accordance with the terms of the application, Ref 15/00276/OUT, dated 20 April 2015, subject to the following conditions:
   1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
   2) The development hereby permitted must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval of such matters on different dates, the date of the final approval of the last such matter to be approved.
   3) An application for details of the following matters (hereafter referred to as the ‘reserved matters’) shall be submitted to and approved in writing by the local planning authority before the commencement of any works:
      a. the scale of the development;
      b. the layout of the development;
      c. the external appearance of the development;
      d. details of access arrangements; and
      e. the landscaping of the site.
      The development shall thereafter be implemented in accordance with the approved details.
   4) The development hereby permitted relates solely to the approved plan numbered NA 19130/01 Rev B.
5) Along with the submission of the reserved matters application a ground investigation into land stability and ground conditions for infiltration shall be submitted along with a drainage strategy for the site.

6) The recommendations of the ecological appraisal dated 9 October 2015 shall be fully integrated into the landscaping scheme to be submitted as part of the reserved matters along with further survey work as required by the appraisal. All other recommendations of the appraisal shall be fully implemented on site in a manner to be submitted to and agreed in writing by the local planning authority prior to the commencement of works on site. Works shall be completed in accordance with the agreed details.

7) Before any other operations are commenced, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the local planning authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

8) No dwelling shall be occupied until details of the proposed parking and manoeuvring areas within the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the facilities retained for the designated purposes at all times thereafter.

9) No part of the development shall be occupied until details of arrangements for the storage of bins and collection of waste have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

**Procedural matters**

2. The application was submitted in outline with all matters reserved for future determination. I have considered the appeal on this basis, although I note the indicative block plan provided.

3. I have used the site address as set out within the decision notice for reasons of clarity though I have also included the postcode for completeness.

**Application for costs**

4. An application for costs was made by Anthony Lewis against Derbyshire Dales District Council. This application is the subject of a separate Decision.

**Main Issues**

5. In determining this appeal the main issues are:

   - The effect of the development on the character and appearance of the surrounding area; and

   - The effect of the development on protected species.
Reasons

Character and appearance

6. The triangular shaped appeal site forms part of a steeply sloping field on the edge of the settlement of Tansley. It is located within the countryside but directly adjoins the settlement boundary of Tansley. The site is surrounded on three sides by existing residential development, with detached dwellings to the north, east and south. A public footpath extends along the western boundary of the site, beyond which is open countryside. There are long distance views from the site of the surrounding landscape to the north.

7. The Council states that the proposal would be contrary to the Derbyshire Dales Local Plan 2005 (LP) Policy NBE8 which indicates that planning permission will only be granted for development that protects or enhances the character, appearance and local distinctiveness of the landscape. I am also mindful of the National Planning Policy Framework’s requirement to recognise the intrinsic character and beauty of the countryside.

8. The site is not covered by any statutory landscape designation. Whilst it forms part of a larger field which extends to the west, the appeal site is tucked away behind existing development at the end of Starth Lane. On my site visit I walked along tracks and roads within the area and the adjacent public footpath. I saw that local views looking towards the appeal site are dominated by the surrounding existing development, particularly dwellings to the south and south east which are significantly elevated above the site. This includes a large detached timber garage which is prominent on the skyline directly above the site.

9. I saw that overall the site is rather unremarkable in terms of its character and appearance being predominantly covered by rough grassland and overgrown scrub. In addition, whilst there is currently no actual physical boundary along the western side of the site, the line of the footpath which is clearly visible on the ground, does to some extent separate the site from the wider field.

10. Furthermore, whilst landscaping matters would be considered further at the reserved matters stage and the block plan is illustrative only, it does demonstrate that a dwelling could be located on the site and there would be the opportunity for additional new landscaping including a new native species hedgerow along the western boundary which would assist in screening the proposal. I also note that the adjacent footpath would be unaffected by the development. I therefore have given the illustrative block plan some weight.

11. I acknowledge that the proposal would introduce urban development on to what is currently an undeveloped site. However taking account of the above factors, particularly its proximity to visibly dominant urban development, some of which is significantly elevated above the site, I consider that the visual impact of the development on landscape character would be limited when viewed in the context of the wider area. Overall, the dwelling would be a small addition to the village and would visually appear as part of the existing urban form. Furthermore the adjacent public footpath would remain in situ and views of the remaining field and boundary trees to the west and long distance views to the north would generally be unaffected.
12. Whilst concerns have been raised about the density and potential overdevelopment of the site, the size, design and layout of the dwelling would be considered at the reserved matters stage.

13. Therefore taking the above matters in to account, I conclude that the development would not be unduly intrusive within the locality and overall would not result in material harm to the character and appearance of the surrounding area. Accordingly the proposal would comply with LP Policy NBE8 and the Framework in this regard.

Protected species

14. The Council’s second reason for refusal cites LP Policy NBE5 which seeks to ensure that development does not result in harm to protected species.

15. I note that as part of the appeal process an ecological appraisal dated 9 October 2015 has been provided by the appellant. Based on the methodology undertaken no signs of protected species were found within the site, though I note that parts of it have the potential to support breeding birds and reptiles. As such recommendations are included should the development be allowed.

16. Whilst the Council has not withdrawn this reason for refusal, it does consider that the appraisal submitted shows that there are no significant issues with regard to the impact of the proposal on the ecology of the site and that appropriate mitigation measures could be implemented by condition. I am therefore satisfied, based on the evidence before me, that there would be no significant adverse impact on protected species within the site. This would be subject to the implementation of the recommendations within the ecological appraisal which could be enforced through an appropriate condition.

17. In addition, as I have noted previously under the other main issue, the appellant proposes to plant a new native species hedgerow along the entire length of the western boundary of the site. This could improve habitats for local fauna within the site as indicated within the appraisal.

18. Therefore taking all the above into account I conclude that the development would not cause undue harm to protected species. As such it would accord with both the Framework and LP Policy NBE5 in this regard.

Other matters

19. The Council accepts that it is unable to demonstrate a five year housing land supply and as relevant policies for the supply of housing are out of date the presumption in favour of sustainable development applies. Whilst the proposal would only provide a single dwelling this would nevertheless make a contribution, albeit small, towards local housing needs which weighs in support of the proposal.

20. Concerns have been raised about the effect the development would have on highway safety along Starth Lane and at the junction with Thatchers Lane, particularly in regards to parking and turning. However the development would only add one additional dwelling which would not create a significant amount of additional traffic. Subject to reserved matters details, parking and turning could also be provided within the site. I note that the Highway Authority does not object to the proposal and as there is no firm evidence to the contrary, I have no reason to disagree.
21. I also have no firm evidence before me to demonstrate that the proposal would exacerbate existing surface water and drainage concerns or affect land stability. Furthermore the Council has recommended that these matters could be adequately managed through the imposition of appropriate conditions and I am satisfied with this approach.

22. As regards concerns raised about overlooking and loss of privacy, the Council does not object on these grounds. Whilst I recognise that the location of the proposed property would be determined at the reserved matters stage, I consider that acceptable intervening distances could be achieved between the new dwelling and adjacent properties so that the living conditions of neighbours would not be prejudiced. Furthermore whilst I recognise that views from some adjacent properties would change, this in itself is not a planning matter for my consideration. The construction of the site would to some extent be disruptive for residents of neighbouring properties but this would be for a temporary period only.

23. I also note that the Council considers that the site is within a sustainable location and based on the evidence before me I have no reason to disagree. In addition I do not consider that the proposal would set a precedent for further development of the rest of the field as each case must be determined on its own merits.

24. Whilst reference is made to other planning application and appeal decisions within the area by both the appellant and local residents, no details on these have been provided. In any event and as stated previously I must determine this appeal on its own individual merits.

25. As regards concerns about the handling of the planning application the appellant would need to raise this with the Council in the first instance. I confirm in this respect that I have had regard only to the planning merits of the proposal.

Conditions

26. I have considered the conditions suggested by the Council and the Highway Authority in the light of the advice given in the Planning Practice Guidance (PPG). As such I impose most of them, though have made minor amendments to some in the interests of precision and enforceability. I am satisfied that the conditions set out in my decision meet the tests within the PPG.

27. Conditions on setting reasonable time limits and the provision of details on reserved matters are necessary as the application made is for outline permission. As a revised plan was submitted during the application process I also impose a condition specifying this plan for the avoidance of doubt.

28. I attach conditions on land stability and drainage in order to ensure that there would be acceptable living conditions for neighbouring residents and future occupiers of the dwelling. I also impose a condition to ensure that the development includes the recommendations set out in the ecological appraisal in the interests of wildlife and habitat conservation.

29. To ensure highway safety, and notwithstanding that layout and design are reserved matters, I attach conditions regarding the construction phase, vehicle parking, manoeuvring and arrangements for the storage and collection of
waste bins. However I do not impose the suggested access condition as this would be determined at the reserved matters stage.

Conclusion

30. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

Y. Wright

INSPECTOR
Appeal Decision

Site visit made on 21 March 2016

by Gareth Wildgoose  BSc (Hons) MSc MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 May 2016

Appeal Ref: APP/P1045/W/16/3142492
Derwent Carpets & Curtains Ltd, 67 Dale Road, Matlock, Derbyshire DE4 3LT

- 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 Dormand against the decision of Derbyshire Dales District Council.
- The application Ref 15/00376/FUL, dated 17 May 2015, was refused by notice dated 26 August 2015.
- The development proposed is described as “change of use of retail premises to public house”.

Decision

1. The appeal is allowed and planning permission is granted for change of use of retail premises to public house at Derwent Carpets & Curtains Ltd, 67 Dale Road, Matlock, Derbyshire DE4 3LT in accordance with the terms of the application ref: 15/00376/FUL, dated 17 May 2015, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Mr Simon Dormand against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The site address and description of development provided on the application form have been updated in subsequent documents. I consider these to be more precise and concise, therefore I adopt them accordingly.

Main Issues

4. The main issues of this appeal are:
   - the effect on the living conditions of the occupiers of nearby properties, with particular regard to noise and disturbance, and;
   - whether the proposed use would ensure a safe and accessible environment, with particular regard to the prevention of crime and disorder.
Reasons

Living conditions

5. The appeal site is an existing retail premises accessed via an existing pedestrian link from Dale Road and via a public car park located to the rear of Parkside, within Matlock Town Centre and Matlock Bridge Conservation Area. The appeal proposal seeks to change part of the existing Derwent Carpets & Curtains business into a public house.

6. The proposed use would be located in close proximity to the residential accommodation in Parkside. This is considered to be a sensitive relationship where living conditions could be vulnerable to increased noise, disturbance and cooking odours associated to the proposed use.

7. Policy SF1 of the Derbyshire Dales Local Plan (LP), adopted November 2005, seeks to ensure that development is well related to surrounding properties and land uses, a similar requirement is also included in Policy SF5 of the LP although the supporting text directly relates this to new buildings rather than changes of use. Nevertheless, such a requirement is consistent with a core planning principle of the National Planning Policy Framework (the Framework) which seeks to ensure ‘a good standard of amenity for all existing and future occupants of land and buildings’.

8. The immediate surroundings of the appeal premises are reflective of its town centre location with properties on Dale Road comprising a mix of commercial uses, including existing public houses, restaurants and hot food takeaways which open late into evenings on each day of the week. To the rear of Dale Road and opposite to the appeal premises is the Parkside mixed use development comprising commercial units at ground floor level, which are predominantly open during the daytime, together with residential apartments comprising the floors above. A public car park is located to the east of this building, with parking provision and access available at all times of day.

9. With respect to the presence of the above uses, I would expect that Dale Road and the public car park would be the primary focus of existing vehicular and pedestrian activity, with an associated level of noise and disturbance typical of a town centre location into late evenings on each day. This activity would also extend to an existing external drinking area to the rear of No 77 Dale Road which directly faces the Parkside apartments, although I observed during my visit that use of this area is restricted after 2100 on each day. Nevertheless, it is reasonable to consider that there would be some existing comings and goings between Dale Road and the public car park when the existing town centre uses are open, including the use of the existing pedestrian link and courtyard area between the appeal premises and the Parkside apartments. It is unlikely that occupiers of the Parkside apartments and other nearby residents benefit from a local environment where significant pedestrian and vehicle activity is absent during the day or even into late evenings, notwithstanding the backstreet location.

10. The appellant’s evidence includes a noise assessment which concludes that the noise impact upon the nearest residential proposal arising from the premises would be low and not sufficient to create disturbance at the nearest residential apartments. The conclusion is subject to a recommendation of conditions to control hours of opening, hours of refuse disposal, music and amplified sound,
and a noise attenuation measures including non-opening windows, restriction on use of the kitchen door, the installation of passive acoustic vents, an internal acoustic lobby and mitigation for mechanical plant and services. Although the Council has reiterated concerns with respect to noise and disturbance, it has not provided any alternative or contrary evidence of its own. Nor do I have any substantive reason to conclude that the appellant’s noise assessment is inaccurate or significantly flawed. Appropriately worded conditions to reflect the recommendations are capable of being imposed upon the operation of the premises to avoid significant harm to the living conditions of occupiers of nearby properties, in accordance with paragraph 206 of the Framework and without contravening other legislation or regulations.

11. The noise assessment also suggests that the limited capacity of the premises, together with the proposed trading hours up to 2300 and the absence of a proposed external smoking or drinking area would prevent significant congregations of people outside of the premises. Furthermore, the noise from customers arriving at and leaving the premises during the evening and daytime hours would be expected to be generally low. Although there might be some peak activity around closing times, the comings and goings of customers are likely to be dispersed across the evening and would not cause a significant increase in noise and disturbance.

12. Based on the evidence before me and my observations of the site, I have no reason to take a different view. It is reasonable to consider that the development would increase footfall in the area during the daytime and into the late evenings. However, the capacity of the premises would be restricted by the limited floorspace of the ground floor property. To my mind, the additional comings and goings associated to the premises therefore would not significantly increase the level of noise and disturbance experienced by nearby properties given existing levels of activity in the surrounding area. This is noting that the activity associated to the proposed use would cease earlier than existing public houses nearby and not later than 2300, after which residents would reasonably expect a quieter living environment to be preserved.

13. In reaching the above findings, I have taken into account that the Council’s Environmental Health Department refer to a number of noise complaints having previously been received relating to existing public houses and the use of external drinking areas. However, these existing premises operate at later hours of the evening than the proposed use and an external drinking area is not proposed as part of the development. As a consequence, the existence of complaints relating to other properties does not in itself demonstrate that harmful noise and disturbance would result from the appeal proposal which is necessarily considered on its own merits.

14. The submitted plans indicate that a cooker extractor flue would be added to the southern elevation of the premises at ground floor level. Specific details have not been provided with respect to the design and specification of equipment to deal with fumes and odours, or the type and level of noise it might give rise to. Nevertheless, during my visit to the site I observed a number of similar flues located on the side elevation of the Parkside building and in closer proximity to existing residential properties. In such circumstances, I have no reason to doubt that it would not be possible to provide an effective solution that would avoid harm to the living conditions of the occupiers of nearby properties. It is therefore appropriate to address the requirement for such details by condition.
15. I conclude therefore that the development would not harm the living conditions of the occupiers of nearby properties. The appeal proposal would not conflict, therefore with Policy SF1 of the LP or the Framework in this respect.

Crime prevention and anti-social behaviour

16. The Council has referred to Policies SF5 and NBE27 of the LP in so far as they seek to minimise the risk and fear of crime and disorder. However, it is evident from these policies and their supporting text that the requirements are focused upon new buildings rather than changes of use. Nevertheless, the Framework is clear that decisions should create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

17. The appellant, in support of his case, has provided evidence based on Police.UK statistical reports relating to anti-social behaviour crimes in the vicinity of the appeal site in a period of 12 months up to August 2015. The evidence suggests that there is a relatively low average rate of 3.5 reported incidents per month. Furthermore, there is no specific link to the presence of the existing public houses on Dale Road and only a limited concentration evident in the area of the public car park. The Council has not provided any contrary evidence or suggested that an increase in crime and anti-social behaviour in the wider locality of Dale Road would occur.

18. The position of the appeal site behind Dale Road benefits from limited natural surveillance from passers-by. In addition, the pedestrian link between Dale Road and the public car park, including the courtyard area between the appeal premises and the Parkside apartments, is poorly lit and secluded at present with limited natural surveillance from surrounding properties. This is a concern to the Council and the County Council Crime Prevention Design Advisor. However, the existing access to this area is well used at present and I have no substantive evidence before me that additional use of the pedestrian link would increase the likelihood of anti-social behaviour or increase the fear of crime. This is noting that an increase in footfall in the area arising from the development during the daytime and evening would increase the natural surveillance offered by passers-by. Furthermore, the provision of CCTV and security lighting as suggested by the appellant would have a positive effect in terms of crime prevention. Full details of CCTV and security lighting are not included with the application but can be secured by condition.

19. I conclude that the development would ensure a safe and accessible environment, with particular regard to the prevention of crime and disorder. The appeal proposal would not conflict, therefore with the Framework.

Other Matters

20. The appeal site is in the Matlock Bridge Conservation Area. As there would be limited alterations to the external appearance of the building, the change of use would preserve the character and appearance of the Conservation Area.

21. The existing parking restrictions and delivery arrangements on Dale Road would be adequate to serve the development given that the number of additional delivery vehicles would not be significant in a town centre location. The appeal site is also in a sustainable location with public car parks nearby.
22. Third party representations expressed concern with respect to the number of licenced premises in the vicinity of the appeal site and an absence of need for additional public houses. However, there is no requirement in the development plan or the Framework to demonstrate need for a public house. In fact, the Framework suggests decisions should plan positively for provision and use of community facilities (which includes public houses). The development is therefore necessarily considered on its individual planning merits, with account taken of the cumulative effect with surrounding uses. Based on my previous reasoning, I do not consider that an additional public house in a town centre location would have a harmful effect on the character of the surrounding area. In addition, I have no substantive evidence before me that the development would result in harmful levels of additional litter in the surrounding area.

Conclusion

23. For the reasons given above, I conclude the proposal would accord with the development plan and the Framework as a whole. Accordingly, the appeal should be allowed.

Conditions

24. The standard time limit condition is required, as is a condition requiring that the development is carried out in accordance with the approved plans to provide certainty in terms of the planning permission granted.

25. I have also imposed necessary conditions in the interest of preserving the living conditions of the occupiers of nearby properties as mentioned in my reasoning. These include necessary controls upon the premises relating to hours of opening (1200 - 2300 on each day), hours of refuse disposal, hours of delivery, prevention of music and amplified sound, together with agreement of a noise attenuation scheme including the installation of passive acoustic vents, closure of windows, an internal acoustic lobby and mechanical plant and services, together with details of extraction equipment.

26. A condition is also necessary to ensure a safe and accessible environment, with regard to the prevention of crime and disorder, through securing agreed details and implementation of a CCTV and security lighting scheme.

27. The conditions relating to noise attenuation, control of fumes and odours and installation of CCTV and security lighting require actions to be carried out before the change of use. This is because the specified actions are necessary to ensure that potential harm is avoided.

28. The Council recommended consideration of a further condition relating to agreement of details of servicing and refuse collection for the premises. However, I consider such a condition would be unnecessary given the inclusion of conditions to restrict refuse disposal, including the handling of drinks bottles, and deliveries to daytime hours (between 0900 - 1700) which would limit disturbance to the occupiers of neighbouring properties. In this respect, I also consider that the site can be appropriately serviced from Dale Road and via the existing access in a similar manner to the existing use of the premises.

Gareth Wildgoose

INSPECTOR
SCHEDULE

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 location plan (dated 11 June 2015), site plan (dated 10 June 2015), proposed exterior building plan (dated 10 June 2015) and proposed interior changes plan (dated 10 June 2015) and proposed door details (dated 10 June 2015).

3) The use hereby permitted shall not be open to customers outside of the following times: 1200 - 2300 on any day.

4) No deliveries to the premises shall take place outside of the following times: 0900 - 1700 on any day.

5) No disposal of refuse from the premises to external bins or storage, shall take place outside of the following times: 0900 - 1700 on any day.

6) No music or other amplified sound shall be played within the premises so as to be audible from the nearest residential premises.

7) Notwithstanding condition 2, prior to the commencement of the use hereby approved, full details of noise attenuation scheme, shall be submitted and approved in writing by the local planning authority. The details shall include, but are not limited to, the installation of passive acoustic vents, details of windows to be fixed shut, access restrictions for the kitchen door and provision of an internal acoustic lobby to the customer entrance, together with the mitigation to be applied to mechanical plant and services. The approved scheme shall be implemented in accordance with the approved details prior to the use commencing and retained thereafter.

8) Notwithstanding condition 2, prior to the commencement of the use hereby approved, details of a scheme for the control of fumes and cooking odours generated by the use shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details prior to the use commencing and shall subsequently be retained thereafter and maintained in accordance with manufacturers specifications.

9) Prior to the commencement of the use hereby approved, details of a CCTV and security lighting scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details prior to the use commencing and retained thereafter.
Appeal Decision

Site visit made on 26 April 2016

by A J Mageean  BA (Hons) BPI PhD MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 May 2016

Appeal Ref: APP/P1045/W/15/3141272
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 D Garner against the decision of Derbyshire Dales District Council.
- The application Ref 15/00412/FUL, dated 15 June 2015, was refused by notice dated 17 August 2015.
- The development proposed is erection of dwelling house.

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of the development given on the appeal form as it more accurately describes the development proposed.

3. There have been a number of previous planning applications for the erection of a dwelling on this site, the most recent of which was allowed at appeal (reference APP/P1045/A/14/2215097). This previous application was for a two storey dwelling. I also note that the Wirksworth Neighbourhood Plan 2015 (the Neighbourhood Plan) was adopted subsequent to this earlier decision. I have therefore taken account of the findings of the previous Inspector in my decision, in so far as they are relevant.

Main Issue

4. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is a prominent corner location at the junction of Wood Street, Nether Gardens, Canterbury Road and the unadopted access road which serves the houses know as Barnes Croft. The surrounding area is of mixed character, with two storey semi-detached and detached houses to the north-west, north and east. To the south east lies the Old School House, a substantial period property largely hidden by mature landscape, which I understand contains Tree Preservation Orders (TPO). To the west is a single storey industrial unit. Whilst the appeal site is located close to Wirksworth town centre there are clear views of wooded hills to the east.
6. The proposed development is a two bedroomed bungalow with accommodation in the roof space. The front building line of the dwelling would be parallel to that of No 24 Nether Gardens, close to the western boundary of the plot. It would be sited approximately 1m from the northern boundary with No 24 and close to the southern boundary which adjoins the existing access road. A garden area and parking space would be provided to the rear. The appellant describes the bungalow as a traditional brick built property, with detailing to match the adjoining properties to the north. The roof would have front and rear gables and would contain a number of windows. Additionally there would be a high level circular window in the southern elevation.

7. Given the prominence of its location it is appropriate to give careful consideration to the appearance of the proposed development in the local street scene. In this respect by virtue of its proximity to the properties on Nether Gardens my view is that it relates more closely to this area than the more dispersed and varied buildings to the south and west which are further away from the appeal site. I note that the previous Inspector refers to the extant approval for the two storey property on this site being a minor and complementary addition to the existing group of buildings and therefore not appearing incongruous.

8. In the present case due to the height and overall appearance of the proposed bungalow it would not appear as a continuation of the street frontage of Nether Gardens. These existing properties are of reasonably uniform appearance which, together with the similarity in design and appearance of the more recent houses in the Barnes Croft development to the east, creates a degree of harmony in the street scene. I note that an extant approval for a two storey detached dwelling on the adjoining land directly to the east of this site would reinforce the sense of cohesion in this area. The proposed bungalow would therefore appear as a discordant element in this local area. The appellant considers that the addition of a porch would enhance its appearance. Whilst design is a subjective matter, my view is that as enclosed porches are not a feature of this area this addition would exacerbate concerns about the incongruous appearance of the bungalow.

9. Both parties have referenced Policy NP 2 of the Neighbourhood Plan which relates to the quality and character of development within Wirksworth. The Policy refers to the Character Guidance which identifies 33 Character Areas. The appeal site lies in area 19 which includes both Nether Gardens and Barnes Croft and describes the area as being uniform brick two-storey houses.

10. However, the appellant states that the appeal site is at the boundary of areas 17, 19 and 20b of the Neighbourhood Plan. As such the appellant consider that the appeal site lies in an area in which there is no uniformity of building styles or materials. The Character Guidance describes the development considerations relating to areas 17 and 20b, which cover areas to the south and east of the appeal site, as being more broad-brush to reflect the diversity of building types and scale in these areas. However, it is clear to me that whilst the appeal site is located close to the boundary of area 19 it appears most naturally as a continuation of the Nether Gardens frontage. Therefore development should seek to reflect the character of the uniform two storey dwellings within this area.
11. The appellant states that the lower roof line of the proposed bungalow would create a sense of space in the street scene, improving views of the adjacent protected sycamore tree and of the hills in the distance. However, Canterbury Road is already reasonably wide with buildings to the south set back from the road frontage such that there is already a good amount of spaciousness. Whilst there may be some small improvement in the visibility of trees and landscape resulting from this lower level building this would be outweighed by the harm to the street scene by virtue of its discordant appearance.

12. The appellant points to the single storey British Army Office to the south of the appeal site as having the appearance of a bungalow, but as previously stated the appeal site relates more naturally to the other residential properties in area 19. The appellant states that there are many other examples of bungalows located next to two storey dwellings elsewhere in Wirksworth. However, I have judged this proposal in relation to its immediate context and consider it to be inappropriate. The appellant also points to examples of single storey garages adjacent to two storey houses, such as those in Barnes Croft. However, garages are typically small scale and therefore a more incidental element of the street scene. In this case the prominence of the location the appeal site has already been noted. In my view it is particularly important that development on this site should clearly reflect the character of the area.

13. I conclude on this matter that by virtue of its discordant appearance the proposed bungalow would have a detrimental impact on the character and appearance of this area. It would conflict with the saved Policies SF5, H1 and H9 of the Derbyshire Dales Local Plan 2005 which seek to ensure that development enhances local distinctiveness and is well related to its surroundings. It would also conflict with the Neighbourhood Plan Policy NP 2 which requires that new development should reinforce the local sense of character as identified in the Character Guidance. Finally, it would also conflict with the National Planning Policy Framework (the NPPF) which states that planning should always seek to secure high quality design.

Other Matters

14. A number of letters from local residents supporting this development have been received. These letters point to the convenience of this location for much needed single storey accommodation for the elderly. The fact that such a dwelling would be suitable for elderly residents is also stated by the appellant. However, a bungalow in this location would clearly conflict with the design priorities set out in the recently adopted Neighbourhood Plan. This document went through a rigorous process of involvement and consultation across the whole community in the recent past and as such it has legal status as part of the statutory development plan for this area. It is therefore important that decision making on planning matters respects and adheres to the outcome of this process. Furthermore, I have not been presented with any material evidence to suggest that there is a need for accommodation for the elderly in this area.

15. The appellant notes that the Town Council does not raise objections to this scheme, and that this body was a key stakeholder in the Neighbourhood Plan process. However, the lack of objection in this case does not undermine the formal position of the Neighbourhood Plan.
16. The appellant also states that the present approval would represent an improvement in the outlook for the residents of No 24 Nether Gardens. However, as the previous Inspector concluded that the outlook for the residents of this property would not be harmed by the extant approval, the reduced height of the present scheme cannot be regarded as a benefit in this case.

17. It is stated that development on this site will help to eliminate crime and anti-social behaviour in the area by increasing the level of supervision. However the present scheme would be no more beneficial than the extant approval in this respect.

18. Reference is made to this being a sustainable location and development on this site according with the NPPF. It has already been noted that the principle of development on this site has been established by the extant approval. However in this case, as the present proposal fails to comply with local design policies, it has been judged to be an inappropriate form of development in this location.

Conclusion

19. For the reasons given, taking into account all other matters raised, I conclude that the appeal should fail.

AJ Mageean
INSPECTOR
BACKGROUND PAPERS

The following documents have been identified in accordance with the provisions of Section 100(d) (5) (a) of the Local Government Act 1972 and are listed for inspection by members of the public.

Background papers used in compiling reports to this Agenda consist of:

- The individual planning application, (including any supplementary information supplied by or on behalf of the applicant) and representations received from persons or bodies consulted upon the application by the Local Planning Authority and from members of the public and interested bodies by the time of preparation of the Agenda.
- The Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and related Acts, Orders and Regulation and Circulars published by or on behalf of the Secretary of State for the Department for Communities and Local Government.
- The National Planning Policy Framework
- The Planning Practice Guidance

These documents are available for inspection and will remain available for a period of up to 4 years from the date of the meeting, during normal office hours. Requests to see them should be made to our Business Support Unit on 01629 761336 and arrangements will be made to comply with the request as soon as practicable.