This information is available free of charge in electronic, audio, Braille and large print versions on request.

For assistance in understanding or reading this document or specific information about this Agenda or on the “Public Participation” initiative please call Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk

3 March 2014

To: All Councillors

As a Member or Substitute of the Southern Area Planning Committee, please treat this as your summons to attend a meeting on Tuesday 11 March 2014 at 6.00 pm in the Ashbourne Sports and Community Centre.

Yours sincerely

Sandra Lamb
Head of Democratic Services

AGENDA

SITE VISITS

The Committee is advised a coach will leave the Ashbourne Sports and Community Centre at 2.25pm prompt. A schedule detailing the sites to be visited is attached to the agenda. PLEASE NOTE: MEMBERS ARE ADVISED TO WEAR APPROPRIATE FOOTWEAR FOR THE 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

11 February 2014.

3. INTERESTS

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

4. APPLICATIONS FOR DETERMINATION

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

PUBLIC PARTICIPATION

To provide members of the public WHO HAVE GIVEN PRIOR NOTICE (by no later than 12 noon on the day prior to the meeting) with the opportunity to express their views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed.

4.1 Application No. 14/00012/FUL (Site Visit) 5 - 8
Erection of detached garage at Rowan Tree Cottage, Pump Lane, Doveridge.

4.2 Application No. 13/00913/FUL (Site Visit) 9 - 17
Erection of replacement dwelling at Dam Farm, Ednaston.

4.3 Application No. 13/00710/FUL (Site Visit) 18 - 40
Erection of wind turbine, 75m to hub and 100m to blade tip with associated construction of access track and substation at Bradley Pastures, Bradley.

4.4 Application No. 13/00888/FUL (Site Visit) 41 - 45
Erection of conservatory and garage at 58 Walton Crescent, Ashbourne.

4.5 Application No. 13/00854/REM (Site Visit) 46 - 60
Erection of 37 No. dwellings and associated public open space and infrastructure (approval of reserved matters) at land off Lodge Farm Chase, Ashbourne.

4.6 Application No. 13/00726/FUL 61 - 66
Erection of log cabin for a temporary period of 3 years for agricultural worker at Atlow Winn Barn, Winn Lane, Hognaston.

5. TREES PROGRESS REPORT – DDDC APPLICATIONS 67 - 69
To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders.

6. APPEALS PROGRESS REPORT 70 - 84
To note a report on appeals to the Planning Inspectorate.
NOTE

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

Members of the Committee: Councillors Richard Bright, Ken Bull, Steve Bull, Albert Catt, Tom Donnelly (Vice Chairman), David Fearn, Richard FitzHerbert, Steve Flitter, David Frederickson, Mrs Cate Hunt, Angus Jenkins, Andrew Lewer, Tony Millward (Chairman), Mike Ratcliffe, Lewis Rose, OBE, Andrew Shirley, Geoff Stevens MBE.

Substitutes: Councillors Mrs Sue Burfoot, David Burton, Bob Cartwright, Chris Furness, Neil Horton, Garry Purdy, Andrew Statham, Mrs Jacquie Stevens, Mrs Carol Walker.

SITE VISITS

Members will leave the Ashbourne Sports and Community Centre at **2.25pm** prompt for the following site visits. **NB: MEMBERS ARE ADVISED TO WEAR APPROPRIATE FOOTWEAR FOR THE SITE VISITS.**

<table>
<thead>
<tr>
<th>Time</th>
<th>Application No.</th>
<th>Location</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.50pm</td>
<td>14/00012/FUL</td>
<td>Rowan Tree Cottage, Pump Lane, Doveridge</td>
<td>Requested by the Ward Member to enable Members of the Planning Committee to assess the impact of the development on its surroundings and the amenity of the occupants of neighbouring residential properties.</td>
</tr>
<tr>
<td>3.25pm</td>
<td>13/00913/FUL</td>
<td>Dam Farm, Ednaston</td>
<td>Requested by officers to enable Members of the Planning Committee to fully appreciate the issues involved.</td>
</tr>
<tr>
<td>3.50pm</td>
<td>13/00710/FUL</td>
<td>Bradley Pastures, Bradley</td>
<td>Requested by the Ward Member to enable members of the Planning Committee to assess the impact of the proposed development on the local landscape.</td>
</tr>
<tr>
<td>4.25pm</td>
<td>13/00888/FUL</td>
<td>58 Walton Crescent, Ashbourne</td>
<td>Requested by Ward Members to enable Members of the Planning Committee to assess the impact of the proposed development on the occupants of the adjoining residential property.</td>
</tr>
</tbody>
</table>
4.40pm Application No. 13/00854/REM

Land off Lodge Farm Chase, Ashbourne

Requested by Ward Members to enable Members of the Planning Committee to fully appreciate the issues involved.

5.10pm Return to Ashbourne Leisure Centre

COMMITTEE SITE MEETING PROCEDURE

You have been invited to attend a site meeting of the Council’s Planning Committee/Advisory Committee. The purpose of the meeting is to enable the Committee Members to appraise the application site. The site visit is not a public meeting. No new drawings, letters of representation or other documents may be introduced at the site meeting. The procedure will be as follows:

1. A coach carrying Members of the Committee and a Planning Officer will arrive at the site as close as possible to the given time and Members will alight (weather permitting)

2. A representative of the Town/Parish Council and the applicant (or representative can attend.

3. The Chairman will ascertain who is present and address them to explain the purpose of the meeting and sequence of events.

4. The Planning Officer will give the reason for the site visit and point out site features.

5. Those present will be allowed to point out site features.

6. Those present will be allowed to give factual responses to questions from Members on site features.

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

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

9. All persons attending are requested to refrain from smoking during site visits.
THE SITE AND SURROUNDINGS:
The application site sits to the south of and forms part of the garden to Rowan Tree Cottage, a modest detached dwellinghouse situated off Pump Lane within the defined settlement of Doveridge. The site is situated beyond a wall forming a side elevation of the existing dwellinghouse and an area of hardstanding which sits approximately 0.4m below the garden level, which is retained by a wall. The original building fronts Pump Lane. Subservient side and rear extensions were added in the 1980s.

The site is bound by a 2m+ conifer hedge. To the east of the application site is Ashleigh a single storey infill dwelling. The part of the conifer hedge which formed the common boundary with this property has been recently cleared.

THE APPLICATION:
Planning permission is sought to erect a timber clad garage. It will sit 1.2m in from the common boundary with Ashleigh to the east. The garage will run alongside the common boundary for a length of 10m and will have a width of 3m. It will incorporate a shallow dual pitched roof, 2.65m high to ridge and 2.2m high to eaves. The elevation facing the existing dwellinghouse will contain side hung garage doors. Four windows and a door opening are proposed in the elevation facing Pump Lane. The building will sit on a concrete plinth which will be sunk into the ground so that it is level with the existing tarmac driveway which will be extended in a southerly direction for a distance of approximately 3m.

RELEVANT HISTORY:
WED/482/275 Alterations and extensions to dwelling Granted

CONSULTATIONS:
Local Highway Authority: No objections.

Parish Council:
Object on the following grounds:

• visual impact
• loss of existing views
• design (bulk, massing and materials)
• out of scale and character with existing dwelling
• adverse affect on residential amenity of neighbours
• too close to next house – question how it will be maintained.

REPRESENTATIONS:
None.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF1 Development within Settlement Framework Boundaries
ISSUES:

1. The main issues to assess in the consideration of this application are the impact of the proposed garage on the character and appearance of the existing dwellinghouse, its surroundings and the privacy / amenity of the occupants of neighbouring residential properties. The Local Highway Authority are satisfied that the proposed garage would not have any highway safety implications.

2. Policy SF5 of the Adopted Local Plan aligns with guidance contained within the National Planning Policy Framework in respect of design and states that planning permission will only be granted for development that preserves / enhances the quality and distinctiveness of its surroundings, and where it reinforces the sense of place engendered by the presence of distinctive local building styles and materials. Policy H2 of the Adopted Derbyshire Dales Local Plan (2005) sets out the District Councils approach to dealing with extensions to existing dwellings and states that planning permission will only be granted for such development that does not have a detrimental impact on the character and appearance of an existing dwelling and the privacy and amenity of the occupants of neighbouring residential properties.

3. Whilst the concerns of the Parish Council are noted, the position and height of the proposed garage to eaves is such that it would not have a significant overshadowing or overbearing impact on the occupants of the closest residential property, Ashleigh to the east. The proposed garage only marginally exceeds permitted development parameters and the applicant proposes to set the building down so that it sits level with the existing tarmac driveway to mitigate its impact. A building set 2m in from the common boundary could be up to 4m high with a dual pitched roof. Such a building would have a much greater impact, it is considered, than the garage subject of this application. The occupants of Highfield House to the south would not be adversely affected by the proposed development.

4. The Parish Council have raised concerns with regard to the visual impact of the proposed building and its design and consider that it is out of keeping with its surroundings. The proposed building would be screened from Pump Lane by an existing conifer hedge. Although long, the design and appearance of the proposed garage is such that it would not have a detrimental impact on the character and appearance of the existing dwelling or its surroundings.
It would read as a subservient outbuilding. A much larger building, in terms of its height and footprint could be erected on the land, closer to Pump Lane, as permitted development given the position of the garden relative to the existing dwellinghouse. The Local Planning Authority would have no control over the design and appearance of such development.

5. Taking the above into consideration and notwithstanding the Parish Councils concerns, it is not considered that a recommendation of refusal could be sustained on the basis of the buildings impact on the dwellings character and appearance, its surroundings or the privacy and amenity of the occupants of neighbouring residential properties. A recommendation of approval is put forward on this basis.

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

1. Condition ST02a: Time Limit on Full.

2. No development shall commence on site until details of the finished levels of the garage floor surface has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reasons:

1. Reason ST02a.

2. To minimise the impact of the proposed garage on the amenity of the occupants of the residential dwelling known as Ashleigh to the east in accordance with the aims of Policies SF5 and H2 of the Adopted Derbyshire Dales Local Plan (2005).

Footnotes:

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

2. Condition 2 of the Approval is a 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 condition precedent have been met. Failure to discharge the condition may leave the development liable to the Council initiating formal enforcement proceedings.

3. NFA21: Conditions Fee Discharge.

This Decision Notice relates to the following documents:
1:1250 Scale Site Location Plan;
1:200 Scale Proposed Block Plan;
Proposed Garage Elevations, Layout and Perspective Drawing and;
Aerial Photograph received by the District Council on the 15th January 2014.
THE SITE AND SURROUNDINGS:
The application concerns Dam Farm; a large double pile, red brick and tile farmhouse which sits in open countryside to the north east of Ednaston. A split level barn / outbuilding adjoins the main farmhouse and a range of single storey barns of traditional appearance enclose a yard area to the east. The building group sits within extensive grounds / gardens and is accessed via a long driveway from a private road off Yeldersley Lane. The buildings are well contained by existing landscape features and are surrounded by countryside. To the north of the site is Brook Cottage a large detached dwelling, faced in render. The land falls away in an easterly direction towards woodland and a series of fishing lakes.

The single storey barn, which encloses the yard area to the east was converted to a dwelling in 1988. The main farmhouse has also been extended at its eastern end.

THE APPLICATION:
Full planning permission is sought to demolish the existing farmhouse and garage / store and to erect a replacement dwelling, which will have the appearance of a two storey dwelling with extra storeys of accommodation built into its attic and a basement. The basement level will be excavated into the ground and will accommodate a gym and home cinema. The main living accommodation will be at ground floor level and will include a kitchen / breakfast room, dining room, music and drawing room, library, study, utility and family room. Access to an indoor swimming pool, which is offset to one side and sited at the rear of the replacement dwelling within a single storey annex is shown through the family room. The first and second floors will accommodate eight bedrooms, five en-suites and a bathroom. The dwelling will have the appearance of a grand double pile farmhouse, with two subservient wings and will incorporate 3 gablets in the principal and rear roof planes and tall red brick chimney stacks. The main dwellinghouse will have a maximum width of 32m and a depth of 15m. The central section will be 10.5m high to ridge. The annex containing the swimming pool will wrap around part of the rear elevation and will project a further 7m beyond the north east facing elevation. This part of the building will have the appearance of an orangery with a dual pitched roof and will extend beyond the rear roof plane an extra 8m, for a width of 12.5m. The rear section will have a flat roof, which will be covered in grass.

The existing dwelling, detached garage to the south east and store with a total footprint of 274m² will be demolished. The replacement dwelling will have a footprint of 393.5m², including the indoor swimming pool (which has a floor area of 152m²). The replacement dwelling would be reoriented 45° (approx.) to front / maximise views over the formal gardens.

It is proposed to create a cart style opening in the rear wall of the adjoining barn to provide access through the building to an open store. Access to the site off the private road will continue. The current driveway will also remain, with some works proposed to the hard standing. Some planting is also proposed around the property entrance.
With regard to the scale and appearance of the replacement dwelling the applicant’s state in their Design and Access Statement that the design has evolved from an Elizabethan style gabled faced façade to a simpler design with more influence from the formal buildings within the local and wider area as well as reflecting the existing buildings on site.

RELEVANT HISTORY:
0289/0148 Approval of reserved matters – conversion of cowshed to dwelling Granted
0988/0662 Conversion of cowshed to dwelling (outline) Granted

CONSULTATIONS:
Local Highway Authority
Whilst exit visibility falls below the national guidance which this Authority uses, given that the proposal is for a replacement dwelling it is unlikely that a highway objections on these grounds alone could be sustained. Conditions and footnotes are, however, recommended.

Parish Council
No comments received at the time of preparing this report.

Natural England:
Refer the District Council to their standing advice.

Derbyshire County Council Minerals:
The proposed development would not adversely affect the Minerals Planning Interest.

Derbyshire Wildlife Trust:
The additional information provided by the applicants presents a bespoke package of mitigation that includes the provision of compensatory bat roost features in the form of bat boxes and new bat lofts in the new development. It is likely that the proposed mitigation will enable the favourable conservation status of the local bat population to be maintained.

The submission of the Bat Mitigation Strategy now ensures that a planning decision can be made having taken the presence of European protected species into account in accordance with the requirements of the Habitats Regulations.

In line with the British Standard for Biodiversity BS 42020:2013, we would advise that the demolition of the main house, garage building and smaller garage and modifications to the barn shall not commence unless the local planning authority has been provided with a license issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead.

It is also noted that substantial evidence of nesting birds was observed during the Extended Phase 1 Habitat Survey including swallows in buildings B2 and B3 and House Sparrow (a species of principal importance) in the main farmhouse B1. We would therefore advise that a condition should be attached with regard to the timings of the works to ensure that breeding birds are protected from harm during the works.
REPRESENTATIONS:
An email from a member of the public has been received in support of the application. In their email they agree with the Design and Access Statement and strongly support the proposal for a new country house in the style of the classic Derbyshire houses. They like the planned build very much and feel it is very sympathetic to its surroundings, while adding a new landmark building. They also like the mock Georgian style of the planned development, in line with the existing farmhouse.

POLICIES:
1. Adopted Derbyshire Dales Local Plan (2005):
   SF4: Development in the Countryside
   SF5: Design and Appearance of Development
   H4: Housing Development outside Settlement Framework Boundaries
   H6: Replacement Dwellings in the Countryside
   H8: Extending Domestic Curtilages into the Countryside
   H9: Design and Appearance of New Housing
   NBE5: Development Affecting Species Protected By Law Or Are Nationally Rare
   NBE7: Features Important In the Landscape
   NBE12: Foul Sewage
   NBE26: Landscape Design in Association with New Development
   TR1: Access Requirements and the Impact of New Development
   TR8: Parking Requirements for New Development

2. Derbyshire Dales Local Plan Pre-submission Draft (June 2013):
   Development Management Policy 2- Development in the Countryside
   Development Management Policy 8 – The Historic Environment
   Development Management Policy 9 - Design and Appearance of Development
   Development Management Policy 22 - Access and Parking

3. Other:
   The National Planning Policy Framework (2012)
   Landscape Character and Design – Derbyshire Dales District Council Supplementary Planning Document (Adopted July 2007)

ISSUES:
1. The relevant policies of the Adopted Derbyshire Dales Local Plan (2005) are to a large degree echoed in the District Councils emerging Local Plan. There is, however, a slight change in emphasis in Development Management Policy 2 (DMP2) with regard to replacement dwellings. DMP2 requires a single replacement dwelling to be of a comparable scale and floorspace where renovation / repair of the original dwelling is not a more satisfactory alternative. Minimal weight can, however, be afforded to the policies contained in the emerging local plan given that it is in pre-submission draft form.

As the saved policies of the existing local plan are generally consistent with the guidance in the NPPF the adopted plan policies remain the primary basis for assessing this scheme.
2. Replacement dwellings in the countryside are dealt with under Policy H6 of the Adopted Derbyshire Dales Local Plan (2005). The policy advises that outside the Settlement Framework defined on the Proposals Map planning permission will be granted for replacement dwellings provided that:

(i) the number of dwelling units is not increased and;
(ii) renovation and/ or repair of the original building is not a more satisfactory alternative and;
(iii) the replacement dwelling and ancillary buildings do not have a detrimental impact upon the character and appearance of its surroundings.

Where planning permission is granted, the Council will impose conditions requiring the demolition of the existing dwelling and, where appropriate, the re-use of reclaimable existing materials.

3. The key issues for consideration in respect of this application are:
(i) whether the replacement dwelling ‘is a more satisfactory alternative’ in this case, and whether its design and appearance is acceptable in this open countryside location;
(ii) the affect the development will have on the local environment including protected species, and;
(iii) whether there would be any highway safety implications.

**Impact on the Character and Appearance of the Countryside**

4. The existing farmhouse sits in open countryside. It is a common and prevailing building type in the Derbyshire Dales countryside, being constructed in red brick and tile and in a traditional style. The original building is of limited historic and architectural interest; however, it has a close affinity with the range of outbuilding to the east. It is a simple building, in its form and appearance. Various phases of build including an unsympathetic two storey side extension constructed in a lighter brick have resulted in some dilution of its character. The applicant states that the existing farmhouse is of poor quality, however, the building appears to be structurally sound. Notwithstanding this, the building is in need of modernisation and given that it is of limited architectural and historic interest a replacement dwelling that enhances this part of the countryside and is in tune with its surroundings is not considered to be inappropriate in principle.

5. 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.
6. The proposed dwellinghouse is reminiscent of a grand Derbyshire Farmhouse. Its siting is such that it would still have a close association with the range of associated outbuildings to be retained and its design and scale would be more commensurate / in-keeping with the properties extensive curtilage and formal gardens. The building group is well contained by existing landscape features and site topography and would have a minimal impact on the surrounding countryside, such that its character and appearance would be preserved, a requirement of Local Plan Policy SF4. The applicant proposes to introduce further supplementary landscaping, which will further mitigate its impact. The siting, scale and design of the proposed dwelling is such that it would, it is considered, satisfy the requirements of parts (b) and (c) of Policy H6 of the Adopted Derbyshire Dales Local Plan (2005) in this case.

7. A new opening is proposed in the rear wall of the adjoining outbuilding. It will allow access through the building and will have the appearance of a traditional cart opening and, as such, would not have a detrimental impact on the buildings agricultural character.

Impact on the Local Environment

8. With regard to the impact on protected species, the accompanying protected species appraisal has identified the presence of a number of bat species with the roof of the existing farmhouse and attached outbuildings. A detailed bat mitigation strategy has been drawn up to explain how these species will be accommodated within the buildings to be retained and the replacement dwelling. Derbyshire Wildlife Trust (DWT) are satisfied that the proposed measures which include the provision of compensatory bat roost features in the form of bat boxes and new bat lofts, will enable the favourable conservation status of the local bat population to be maintained.

9. DWT also note that a significant amount of bird activity was observed whilst the survey work was being carried out and request a condition regarding the timing of construction to ensure that breeding birds are not adversely affected by the proposed development.

10. The proposed dwelling, although larger in terms of its footprint, would replace an existing building. There are no nearby Local Wildlife Sites, Regionally Important Geological/Geomorphological Sites (RIGS) or Local Nature Reserves (LNR) that would be adversely affected by the proposed development.

Impact on Highway Safety

11. The Local Highway Authority have raised no objections. Despite the replacement dwelling having more bedrooms it is unlikely that there would be significant intensification of use of the existing substandard access such that refusal on this ground alone could be sustained. The Local Highways Authority have requested a condition preventing the parking of caravans and domestic paraphernalia on the designated parking area without the written authority of the Local Planning Authority. Such a condition is not, however, considered necessary given the amount of available parking space and its limited relevance to planning.
Summary

12. Policies contained within the current Adopted Derbyshire Dales Local Plan do not rule out a replacement dwelling of a larger scale; but it is essential to assess how this will sit on the site, be appreciated in context and affect the character and appearance of the countryside / local sense of place. It is considered that the replacement dwelling proposed could be readily absorbed within the site, without causing harm to the character and appearance of this part of the countryside / local environment in this case, and that its design would be more in tune with its surroundings and a more satisfactory alternative to renovating and/or repairing the existing dwellinghouse. On this basis it is recommended that the application be approved, subject to conditions.

OFFICER RECOMMENDATION:
Planning permission be approved subject to following conditions:

1. ST02a: Time Limit On Full.

2. DM1: All Materials to be Approved – General.


4. PD10: Permitted Development …change ‘any dwelling’ to ‘the dwelling’.

5. Any reclaimable materials used in the construction of the buildings to be demolished shall be re-used, where appropriate, in the construction of the replacement dwelling hereby approved.

6. DM40: Architectural Components – Details (Insert ‘no greater than 1:10’ and ‘1) the pediment above the door in the south east facing elevation and entrance steps, 2) the dormer windows, and 3) the chimney stacks’)

7. Prior to the commencement of development, details of the material and on face dimensions of all window and door cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

8. No works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the buildings for active birds’ nests immediately before the works commence and provided written confirmation to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

9. No demolition of buildings or structures on the site shall take place until the Local Planning Authority has been provided with a license issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising such works to go ahead.
10. Prior to the commencement of development a bird mitigation strategy showing the alternative provision for nesting swallows and house sparrows within the application site shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be implemented prior to first occupation of the replacement dwelling hereby approved and thereafter retained in perpetuity unless the Local Planning Authority gives written consent to any variation.

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

Reasons:

1. ST02a.

2. DM01: …the aims of Policies SF5 and H6 of the Adopted Derbyshire Dales Local Plan (2005).

3. 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).

4. To preserve the character and appearance of the proposed building and its surroundings in accordance with the aims of Policies SF4, SF5 and H6 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

5. To accord with the principles of sustainable development and the aims of Policy H6 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 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).

8. In the interests of maintaining the local bird population 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).

9. In the interests of safeguarding species that are protected by law or are nationally rare 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).
10. In the interests of safeguarding species that are protected by law or are nationally rare 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 highway safety and to ensure the provision of an appropriate level of parking in accordance with the aims of Policy TR1 and TR8 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

Footnotes:

1. Prior to the submission of the application the Local Planning Authority engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns regarding the design and appearance of the replacement dwelling.

2. NFA20 Conditions Precedent... Conditions 2, 6, 7 and 10.

3. NFA21 Conditions Fee Discharge.

This Decision Notice relates to the following documents:
1:2500 Scale Site Location Plan;
1:500 Scale Block Plan ‘As Existing’ numbered 2183-02;
1:100 Scale Existing House and Outbuildings Elevations, Layout and Section Plans numbered 2183-03, 04, 05, 06 and 07;
1:500 Scale Block Plan ‘As Proposed’ numbered 2183-10;
1:200 Scale Site Layout Plan numbered 2183-11;
1:100 Scale Proposed Basement, Ground, First and Second Floor Layout Plans numbered 2183-12 and 13;
Extended Phase One Survey and Bat Survey Report by NLG Ecology Ltd dated September 2013;
Design and Access Statement;
Flood Risk Statement dated December 2013, and;
Landscape Specification Notes received by the District Council on the 31st December 2013, and;
Bat Mitigation Strategy (Revision A) by NLG Ecology Ltd dated February 2014, and;
The proposed turbine would be located in open countryside approximately 400m to the north of the A517 and approximately 200m to the east of the junction with Yewtree Lane that runs south into Bradley. The site is located on sloping ground which descends from south to north to a low point approximately 200m to the north at Dayfield Brook. Beyond Dayfield Brook the land rises again up to a ridge approximately 200m away which is marked by the line of a well-used footpath/access track. Beyond this ridge the land falls away again down to Henmore Brook before rising steeply to the north.

To the west approximately 130m away is Tomlinson Carr, a belt of ancient semi-natural woodland designated as a Derbyshire Wildlife Site whilst further pockets of woodland lie 350m to the south east and follow the north/south alignment of Old Lane 300m to the west.

The site lies within the Wooded Slopes and Valleys Landscape character type of the Derbyshire Peak Fringe and Lower Derwent Landscape character area and is typical of the character area.

The nearest properties to the proposal lie approximately 450m to the south west where a pair of bungalows are located fronting the A517. Further dwellings and barn conversions are sited to the west of these partially enclosed by existing tree screening. The nearest property to the south of the A517 lies at Ryefields 470m to the south east but with an intervening pocket of woodland. The land to the south of the A517 drops away down to Bradley.

The nearest listed building to the site is The White House, part of the grouping to the south west, Grade II Listed and approximately 530m away. Grade II listed buildings at Bradley Hall and the Church of All Saints lie approximately 900m to the south. Further listed buildings, with a direct view of the turbine from the north, lie at Upper Hallfields 1.2km to the north and Atlow Moat 1.6km to the north east.

The nearest scheduled monuments are located at Atlow Moat and Hulland Old Hall 1.7km east, Conservation Areas cover the settlement of Hulland 1.7km to the east, Hognaston over 3km to the north east and Kniveton more than 3km to the north.

The locality has a good footpath and bridleway network and of particular popularity are the route around Carsington Reservoir approximately 4km to the north east and High Peak Trail which runs across Carsington Pastures some distance to the north of this.

The National Park boundary lies 4.1km to the north west at its closest proximity.

THE APPLICATION:
Planning permission is sought for the erection of a wind turbine with a maximum blade tip height of 100m and hub height of 75m. The applicants have submitted details of the Enercon E48 turbine but do not want to be tied to a particular turbine supplier.
Also required to serve the development will be a substation building with typical dimensions of 5m x 3m and height of 2.5m; access track and crane hardstanding for turbine erection.

The applicants initially indicated the formation of an access track leading from an existing field access virtually due south of the turbine location. Having considered the concerns of the Highway Authority the applicants have amended the access point with one being proposed approximately 50m to the west. The access track down to the turbine will run for just over 500m and be formed in crushed stone with approximate width of 5m.

The applicants in their supporting statement indicate that the power connection to the grid would be approximately 600m to the south west of the proposed turbine but no precise details are provided. The turbine itself is indicated to have a base diameter of 4.1m tapering to 1.3m at the top of the tower. The turbine would have 3 blades projecting out 22m beyond the hub and these would rotate in a clockwise direction. The blades would taper down from 2m diameter and the nacelle would be 7m from front to back.

The application further explains that the tower will be tubular steel with glass reinforced polyester blades. The turbine is designed to rotate at 16 – 31 r.p.m. and has a minimum requirement to generate electricity of wind speeds of 4 metres per second, full rated capacity at 15m/s with a cut off for operation in high winds at 28m/s.

Permission for the turbine is sought for a 25 year period at which point the turbine and infrastructure would be removed or a further permission sought.

The construction period for a turbine typically takes 6-8 months with the actual turbine structure erected in 3-5 days.

The applicants suggest that the turbine will produce 1531 MWH of energy annually which they suggest is sufficient to meet the energy needs of 340 households, approximately 6.8% of the households in Ashbourne.

It is claimed that between 566 and 1341 tonnes of CO$_2$ will be prevented annually along with up to 15 tonnes of SO$_2$ and up to 46 tonnes of NOx.

The applicants have submitted the following supporting information:-

1. A Planning Statement
2. A Design and Access Statement
3. An Environmental Impact Assessment incorporating the following documents:
   (i) An explanation of need
   (ii) A description of the proposed development
   (iii) An assessment of national and local policy
   (iv) A landscape impact assessment incorporating impact on designated heritage assets and cumulative impacts
   (vi) A Cultural Heritage / Archaeology assessment
   (vii) A noise assessment
Following initial assessment of the applicant’s Landscape Impact Assessment by the Council’s appointed consultants, the applicants provided an Addendum to that part of the Environmental Impact Assessment.

The relevant components of the Environmental Impact Assessment have been circulated for analysis by statutory consultees whose views are reflected in the consultations section of this report. It is, however, at this point relevant to summarise the applicant’s conclusions on the impact of this development.

They have reached the following conclusions on the impact of the development:-

**Landscape Effects:**

(i) The magnitude of effect on the landscape character type is medium and the significance is assessed as moderate to substantial adverse (significant). The effect on other local character types within the study areas was not concluded to be sufficiently adverse to result in significant effects on the landscape character of the landscape character area as a whole.

(ii) The impact on the Peak District National Park 4.1km away was not considered significant adverse because of distance and intervening land form.

(iii) Impact on National Trust, Registered Parks and Gardens and the World Heritage Site would not be significant because of distance.

(iv) Moderate to significant adverse impacts occurs to properties within 700m and moderate to substantial (significant) views will result to visual receptors at within 2km but the properties at Bradley Pastures Farm are protected by screening vegetation.

(v) Users of the A517 will experience some substantial adverse effects (significant) as will users of Yew Tree Lane at the junction of the A517.

(vi) Users of long distance footpaths and cycleways would experience occasional views but with only slight to moderate adverse impact (not significant).

(vii) Local footpath users within 2.5km would experience significant adverse impacts with views from rights of way in closer proximity experiencing moderate to substantial and substantial (significant) impacts.

(viii) Substantial adverse effects (significant) are predicted during operation from viewpoints 1, 3, 6 and 7 with moderate to substantial adverse effects (significant) predicted from viewpoints 4 and 8.

(ix) Cumulative Effects : None of the visual receptors were identified as experiencing significant cumulative effects due to separation of scheme, screening and topography.

(x) In conclusion, the applicants suggest that significant impacts are limited to those in the local vicinity and these relate to the turbine scale. They suggest that the falling topography helps to mitigate its impact.
The addendum to the Landscape and Visual Impact Assessment in assessing impact from Overfields bungalow suggests that the impacts caused would be unavoidable and would be significant. However, it is suggested that the narrow horizontal field of view occupied by the turbine does not result in the property being an unsatisfactory place to live.

**Ecology and Nature Conservation Effects:**

(i) It is unlikely that the proposed wind turbine will have a significant effect on the birds on site, or commuting over the site.

(ii) It is unlikely that the proposed turbine would have significant impacts on the local bat population.

(iii) The habitats on site are considered of limited ecological value.

(iv) No protected species are present on the site. Whilst badgers are present in the wider survey area they will not be adversely affected by the development.

**Cultural Heritage / Archaeology:**

(i) No statutory designations will be physically impacted upon.

(ii) However, two scheduled monuments, one Grade II * Listed, 11 Grade II listed buildings and 3 Conservation Areas may experience an impact on their settings.

(iii) Of these the majority of impacts have been assessed as slight adverse or slight adverse significance. The highest impacts of slight to moderate adverse or moderate adverse may be experienced by Bradley Pastures Farm and Upper Hallfields Farm. However, these impacts are not ‘significant’ in Environmental Impact Assessment terms.

(iv) The archaeological interest of the site is low and an archaeological watching brief during excavation should be sufficient protection.

**Noise:**

(i) The predicted noise levels from the proposed turbine meet with ETSU-R-97 criteria for both daytime and night-time periods at all speeds up to 12 m/s for the 2 surveyed receptor properties, Overfields and Ryefields.

(ii) The predicted noise levels would even meet the lowest ETSU-R-97 daytime limit of 35 dBA at all speeds up to 12m/s.

The applicant’s assessment of national and local plan policy is not repeated here. However, in summary, whilst acknowledging some adverse visual impact, they conclude that this harm is outweighed by the energy benefits of the proposal and on this basis the proposal complies with the National Planning Policy Framework.

**RELEVANT HISTORY:**
None.
CONSULTATIONS:
Bradley Parish Council:
  Strongly object for the following reasons:-
  1. Inappropriate siting. Too close to dwellings.
  2. Proposed height makes it visually intrusive and would cause significant harm to the character of the landscape.
  3. Turbine would be distracting to motorists at the junction of Yew Tree Lane with the A517.
  4. The site lies on a flight path for birds and light aircraft.
  5. There would be noise impact to other residents in addition to the nearest property.

Yeldersley Parish Council:
  Object as believe that the height of the turbine will make it obtrusive in the rural environment whilst providing no benefit to the local environment, whether economic, visual or otherwise.

Offcote and Underwood Parish Council:
  No objection but feel that no other turbines should be allowed.

Local Highway Authority:
  No objections in principle from a highway safety perspective given its proposed location and distance from any highway or right of way.

The biggest impact is during construction for 6-8 months as once built it can be monitored remotely. The intended use of the existing field access which has poor visibility owing to hedgerows, the highway alignment of the access and traffic speeds on the road do, however, raise concerns over its use during the construction phase. Although it is noted that the construction phase is only temporary and signage and traffic management could address concerns the sustained period of disruption on the main arterial route makes it unlikely that the Highway Authority would sanction this.

The Highway Authority, therefore, raise concerns about the intensified use of a substandard agricultural access. The Highway Authority note, however, the extensive site frontage to the A517 and if the point of access were moved 50m to the west, concerns regarding highway safety would be addressed as acceptable visibility can be achieved at this point.

The Highway Authority, therefore, request the applicant consider this alternative location for an access with the associated closing up of the existing access to overcome their concerns.

Ministry of Defence:
  No objection but request lighting to aid aviation safety.

Civil Aviation Authority:
  Provide general advice rather than specifically commenting on proposal.

Peak and Northern Footpaths Society:
  No objection.
Ramblers Association:
No objection.

Derbyshire County Council (Planning):
The Planning Statement by the applicant appears to undervalue the balance of local impacts in that it does not fully reflect the qualities of the landscape setting in relation to environmental sensitivity, landscape character and visual impacts.

The site lies within an area that has been identified as strategically being of secondary environmental sensitivity in terms of the intactness of the landscape visually and structurally. The landscape as such is susceptible to change.

The Landscape Impact Assessment correctly acknowledges that the overall landscape effect is significant on the local landscape character type. However, it underestimates the significance of the Settled Plateau Farmlands character type which is immediately adjacent to the north and east. When related to the character of this area in terms of issues such as tranquillity the magnitude of the impact is underestimated.

The site lies within an area identified by the CPRE on their national tranquillity map as being towards the most tranquil.

The applicant acknowledges that the development will have significant negative impact on the area particularly in respect of visual impacts. This impact will be adverse, especially from close and medium views which covers residential properties, the A517, minor roads and local rights of way.

Development Control Archaeologist:
The cultural heritage study provides a good summary supported by walkover photography. The report identifies little of any interest and on balance given the limited groundworks it is not considered that an archaeological condition is warranted.

Does not consider that the application properly assesses the impact on the historic landscape. The turbine sits in an area of ‘Ancient Enclosure – fossilised strip system’ in the Derbyshire Historic Landscape Character dataset. A fairly large block of this largely medieval historic landscape type survives around Bradley and should be seen as a undesignated heritage asset (NPPF Chapter 12). The cultural heritage chapter does not present an assessment of the significance of the historic landscape or impact of the turbine. As such the scheme does not meet the information requirements of the National Planning Policy Framework Paragraph128. Additional information should be provided to assess this but in the meantime maintain a holding objection.

Following a response to these comments by the applicants have reassessed the impact on the historic landscape and do not consider that this provides a sustainable reason for objecting to the scheme.

Natural England:
No detailed comments received but do not anticipate raising objection given location.
Derbyshire Wildlife Trust:  
Having considered the contents of the ecological report raise no objections. Suggest the applicant be advised to cover or backfill holes at night as badgers which are present in the wider area can become trapped in open excavations.

Environmental Health:  
Background noise monitoring was undertaken at the 2 closest noise-sensitive properties to the proposed turbine site. Satisfied that the monitoring undertaken has established typical background levels for the chosen locations and the results found are typical for such a locality.

The predicted noise levels submitted that would be expected to be generated by the turbine at the noise-sensitive properties are considered representative. When comparing the two it reveals that the noise from the turbine at this separation is lower than background noise. Given this, based on the applicant’s assessment, a turbine of the type identified would not be expected to generate noise nuisance for the nearest noise-sensitive properties. As the predicted noise levels comply with ETSU-R-97 raise no objection.

In response to concerns raised by occupants of barn conversion at Bradley Pastures, confirmed that whilst background noise levels may be lower due to separation from road and screening the difference would be likely to be of the order of 1dB. This lower background level would not change the conclusions reached as the development would still comply with ETSU-R-97.

REPRESENTATIONS:
A total of 16 representations received raising the following objections:-

1. The proposal will harm landscape character.
2. The size of the turbine is out of scale with the small scale of the landscape typified by fields, hedgerows and small blocks of trees.
3. The introduction of a turbine in this locality would harm the local tourism industry and economy. Visitors to caravan and camping sites locally would be deterred by the potential for noise nuisance.
4. The presence of a turbine would be a distraction to motorists jeopardising highway safety.
5. Noise from the turbine in this very tranquil rural environment will harm amenity and health.
6. Smaller turbines than this have been refused in the locality and it would be inconsistent not to reject this proposal.
7. The barns at Bradley Pastures will have a view of the turbine but the impact is assessed as not being significant because of intervening trees.
8. The proposal may result in shadow flicker to nearby dwellings.
9. Although the turbine is suggested to supply 340 dwellings it cannot do this when the wind does not blow and we still need fossil fuels.
10. The landowner lives in Northumbria and has no interest in the sustainability of the local community, he simply wants to make money out of the proposal.
11. Drivers approaching the junction coming up Yew Tree Lane would be seriously distracted by the turbine directly in front of them to the detriment of highway safety.
12. The proposal is not aiding agricultural sustainability as farmhouse and buildings have been redeveloped.
13. The marginal energy benefits are far outweighed by the harm to the landscape.
14. Developments such as this are divisive turning the community against landowners.
15. The height of the turbine will be completely overpowering when viewed from the rear of Overfields.
16. The turbine will dominate an area of beautiful countryside stretching from the A517 at Bradley north to cover Atlow, Kniveton, Hognaston and far beyond.
17. The proposed access is in a dangerous location.
18. The proposed access track down to the turbine will be a conspicuous scar on the landscape.
19. The residents of Overfields will suffer noise nuisance when the wind comes from the north east.
20. The valley is a flight path for birds, using Carsington Pastures and they will be put in danger.
21. Local property value will be adversely affected.
22. Allowing this turbine could set a precedent for others.
23. The negatives of this proposal far outweigh any environmental benefits.
24. Whilst the noise survey is acknowledged it compares transient background noises such as traffic and birdsong with the constant cyclical low frequency noise of a turbine which is unremitting.
25. The size of the turbine means that it will be visually dominant for the whole village of Bradley and Moor End.
26. The turbine will harm local bat populations.
27. Migrating geese and waterfowl will be put at collision risk.
28. The turbine will be intrusive and visible over a very wide area because of its height.
29. The garden of my barn conversion is closer than those of Overfields and Ryefields to the turbine and is shielded from the road such that background noise levels will be lower. The impact of the turbine is consequently greater on our amenity and the applicant’s suggestion that trees provide a barrier is not accepted. The noise survey should properly assess the impact on our amenity.
30. The proposal will appear as an enormous, discordant, artificial structure in a predominantly rural, agricultural landscape.
31. The proposal will harm the countryside setting to attractive local villages.
32. The setting of historic buildings will be harmed.
33. The separation of the turbine from dwellings is much closer than is allowed in other countries.
34. The landscape attracts horse riders, cyclists and walkers who will be deterred if the landscape is spoilt by this proposal.
35. The amenity of users of public footpaths and bridleways will be harmed.
36. Shadow flicker is a particular concern for those with Epilepsy or Autism.
37. Drivers travelling east to west could also be affected by shadow flicker as the sun sets.
38. This is a poor operational site for a wind turbine due to low wind speeds and rolling topography.
39. The environmental benefits of turbines are questionable due to low efficiency and they may well be in carbon deficit over their lifetime.
40. A smaller turbine would be more acceptable and in scale with the landscape.
41. The public consultation exercise was inadequate.
42. People have a difficulty comprehending the size of these turbines when looking at planning applications and the wireframe illustrations inadequately represent their impact.
43. The 6 houses at Fullwood Grange have a clear view of the turbine all year round and this view is not represented in the photomontage.
POLICIES:

1. Adopted Derbyshire Dales Local Plan (2005)
   SF3: Development Conspicuous From The Peak National Park
   SF4: Development In The Countryside
   SF5: Design And Appearance of Development
   NBE3: Other Sites Of Importance For Nature Conservation
   NBE8: Landscape Character
   NBE16: Development Affecting A Listed Building
   NBE21: Development Affecting A Conservation Area
   NBE24: Archaeological Sites And Heritage Features
   TR1: Access Requirements And The Impact Of New Development
   CS5: Renewable Energy Installations
   CS6: Wind Turbine Generator Development
   L9: Safeguarding Public Rights Of Way

2. Derbyshire Dales Local Plan Pre Submission Draft 2013
   Strategic Policy 1: Sustainable Development Principles
   Development Management Policy 2 – Development in the Countryside
   Strategic Policy 3: Protecting and Enhancing the Natural and Historic Environment
   Development Management Policy 5 – Development Conspicuous from the Peak District National Park
   Development Management Policy 6 – Landscape Character
   Development Management Policy 7 – Biodiversity and Geological Interests
   Development Management Policy 8 – The Historic Environment
   Strategic Policy 9 – Climate Change
   Development Management Policy 22 – Access and Parking

3. Other Material Considerations:
   Landscape Sensitivity Assessment for Renewables in the Peak Sub Region (July 2009)
   Landscape Character of the Derbyshire Dales : Supplementary Guidance to the Local Plan (2007)

ISSUES:

Introduction
The guidance in Annex 1 to the National Planning Policy Framework reiterates the requirement to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 214 of the guidance gave existing local plans full weight for 12 months after its introduction (March 2013). Paragraph 215 makes it clear that after March 2013, due weight should be given to policies in existing plans according to their degree of consistency with the National Planning Policy Framework with greater consistency reflected in greater weight.

This guidance has to be read in conjunction with paragraph 14 of the National Planning Policy Framework which sets out the presumption in favour of sustainable development and explains that for decision-taking this means approving development that accords 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.

The consistency of Adopted Local Plan policies with the framework and, therefore, continued applicability in assessing this application is discussed below. In addition to this the Council can give weight to emerging plan policies depending on the stage of preparation of the emerging plan. Whilst emerging plan policies are highlighted above, they have only limited weight at this moment in time due to the early stage of preparation. They will, however, gain added weight with time given their inbuilt consistency with the framework.

The other important material considerations in this case are the Council’s Supplementary Guidance on landscape sensitivity to renewables and the recently published Planning Practice Guidance for Renewables and Low Carbon Energy.

Planning Policy
The key Local Plan policies that apply to the consideration of this application are:-

SF3, SF4, NBE3, NBE8, NBE16, NBE21, NBE24, TR1, CS5 and CS6.

The Adopted Local Plan contains 2 policies which apply directly to a wind energy proposal such as this. Policy CS6 applies to wind turbine generator development and policy CS5 covers the wider topic of renewable energy installations.

Policy CS6 is expressed in the negative such that development will only be allowed if all criteria are satisfied. This is somewhat at odds with the approach of the framework in paragraph 98 and generally, which encourages authorities to approve development if it impacts are (or can be made) acceptable and to weigh the issues in making a balanced planning judgement. Notwithstanding this the overall aims of protecting the environment, provided these are balanced against the benefits of a scheme are not at odds with the National Planning Policy Framework and as such the policy should retain significant weight in assessing this scheme.

Policy CS5 strikes a more balanced note which is considered to be in tune with the National Planning Policy Framework. It states that planning permission should be granted for renewable energy installations where: (a) it can be demonstrated that the benefits of renewable energy production outweigh any adverse impact the development has on the immediate or wider environment, and (b) unacceptable problems are not created for neighbouring uses, and (c) the development is sited so as to minimise the amount of harm to the immediate or wider landscape. Criteria (b) and (c) are demanding but with the emphasis on assessing the planning balance expressed in (a) it is considered that the policy broadly accords with the aims of the National Planning Policy Framework so that significant weight can still be attached to the policy.

Policy SF3 of the Local Plan seeks to prevent development that has an adverse impact on the purpose of the National Park or which would be harmful to its valued characteristics. This level of protection is carried through in paragraph 115 of the National Planning Policy Framework such that significant weight can still be attached to the policy.

Policy SF4 sets out the criteria for development in the countryside. Whilst it does not explicitly include renewable energy installations within the list of exceptionally acceptable forms of development they are a form of development that usually requires a relatively
remote countryside location. The policy is written in quite a restrictive manner but it broadly accords with the core aims expressed in paragraph 17 of the National Planning Policy Framework which seek to promote sustainable development and recognise the intrinsic character of the countryside such that significant weight can still be attributed to it.

Policy NBE3 has wording which is consistent with the approach in the framework and as such still carries significant weight.

Policy NBE8 is worded in quite a restrictive manner such that permission will only be granted for development that protects and enhances the character, appearance and local distinctiveness of the landscape. This is a demanding test for new development especially for structures such as wind turbines which are always likely to be in some degree of conflict with protecting the landscape. On this basis and given that the National Planning Policy Framework adopts a more balanced approach dependent on the degree of protection the landscape receives, the policy should be afforded only some weight in the assessment of this application.

The aims of Policies NBE16, NBE21 and NBE24 are to protect designated heritage assets. Whilst the wording of these policies may differ from that in paragraphs 128 to 139 of the National Planning Policy Framework, the overall aim of identifying and weighing the protection of heritage assets in the planning balance is consistent with the framework such that the policies retain significant weight in assessing this application.

Policy TR1 of the Local Plan is considered consistent with policies in paragraph 32 of the National Planning Policy Framework and should be afforded significant weight.

In summary, this is not a situation where the development plan is considered absent, silent or relevant policies are out of date as they have a generally high degree of consistency with the framework and as such the Adopted Local Plan remains the primary consideration in assessing this application.

The emerging Local Plan policies that are considered to be of most relevance to this application are SP1, DMP2, SP3, DMP5, DMP6, DMP7, DMP8, SP9 and DMP22. These policies have been drafted to accord with the National Planning Policy Framework.

These policies should only be afforded limited weight at this moment of time but will gather weight as the plan progresses.

The National Planning Policy Framework re-states in paragraph 11 the need to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

In this regard there are two layers of guidance which constitute important material considerations. The Peak Sub-Region Climate Change Study July 2009 provides an assessment of landscape sensitivity to renewable energy installations across the district and has been given significant weight by Appeal Inspectors in their deliberations on turbines.

At a national level the Department of Communities and Local Government in July 2013 published “Planning Practice Guidance for Renewable and Low Carbon Energy” to provide advice to Local Planning Authorities on the planning issues associated with renewable energy developments.
In addition to these material considerations the wider environmental benefits of renewable energy projects have been identified as a material consideration in the assessment of planning applications. The weight to be given to them, however, is in the hands of the decision-maker. The fact that a scheme is providing a relatively modest contribution to overall energy production targets is not something that should count against it and likewise a very significant contribution to meeting energy targets is not a basis for setting aside proper assessment against other plan policies and relevant guidance in reaching a balanced judgement.

As the development has been accompanied by an Environmental Impact Assessment, it is also relevant to consider the degree to which this complies with the regulations in terms of identifying those aspects of the environment likely to be significantly affected, the description of the significant effects on the environment direct, indirect and cumulative, a description of the measures envisaged in order to prevent / avoid, reduce, remedy or offset those effects and the data required to identify and assess the main effects. Should the Environmental Impact Assessment in its totality be deficient in survey information or adopt a significantly flawed methodology in analysing the impacts, it would not be a reliable or sound document on which to base a planning decision.

From this lengthy assessment of the Development Plan and other material considerations, and the comments of consultees, a number of key issues arise around which the consideration of the merits of this scheme are logically discussed. These key issues are as follows:-

(i) Visual / landscape Impact Incorporating Impact on the National Park and cumulative impact.
(ii) The impact on heritage assets.
(iii) The impact on the amenity of nearby residential occupiers.
(iv) The noise impact.
(v) The effect on nature conservation and fauna.
(vi) Impact on highway safety.
(vii) The quality of the Environmental Impact Assessment

The analysis of the major effects of the development are then fed into the assessment of the planning balance.

(i) Visual / Landscape Impact Incorporating Impact on the National Park and Cumulative Impact

The applicants as part of their Environmental Impact Assessment submitted a Landscape and Visual Impact Assessment. This document was supplemented subsequently by an addendum following initial assessment by independent landscape consultants appointed by the Council and a request for further analysis. The applicant’s conclusions on this issue have already been summarised in “The Application”. The independent consultant visited the site in conjunction with the Case Officer in December 2013 and has fully reviewed the original landscape and visual impact assessment and the subsequent addendum. Her conclusions excluding those on heritage assets reported later in this report are as follows:-

1. The landscape and visual impact assessment methodology accords with latest guidance. Whilst the methodology does not set out how the susceptibility of the landscape to wind turbine development has been assessed the LVIA itself
refers to the “Landscape Sensitivity Assessment for Renewables in the Peak Sub Region” 2009 and correctly uses the criteria set out in that study.

2. The photomontages are of a high photographic quality although not always easy to use on site.

3. The site is located within and representative of the Wooded Slopes and Valleys Landscape Character Type (LCT). Based on the susceptibility criteria in the Peak Sub Region Study the LVIA accurately reflects that the Wooded Slopes and Valleys has high sensitivity to the scale of wind turbine proposed and that the site also has high sensitivity to the proposed development. The landscape attributes that are particularly sensitive to this form of development include:-

- Small fields and woodlands creating an intimate pattern
- High levels of peace and tranquillity
- Views across the landscape from higher ground

4. The turbine would be noticeably out of scale with the small scale, topographically complex landscape that surrounds the site in which there are currently no significant landscape or visual detractors.

5. The LVIA concludes that the overall effect on the site would be substantial adverse and significant although only moderate to substantial adverse on the Wooded Slopes and Valleys LCT. I consider the overall affect on the LCT would also be substantial adverse and significant.

6. The LVIA does not consider there would be any cumulative impact but I consider that from viewpoint 1 at the junction of the A517 with Yew Tree Lane and from the footpath along Carsington Dam, there would be adverse cumulative impacts as a result of a loss of distinctiveness between the landscape in which the Carsington Pastures, Viaton and Ryder Point turbines are located and the small scale, complex landscape in which the Bradley Pastures turbine is proposed.

7. I consider that the proposed turbine would result in an overbearing impact on Overfields, the property closest to the turbine. Due to proximity, lack of screening and the orientation of the bungalow, the turbine would have an unavoidable presence from all main rooms and from the garden. Recent appeal decisions have confirmed that a single turbine in such circumstances can constitute an unacceptable impact.

8. It is considered that the proposed turbine could not be accommodated without:-

- Substantial harm to the local landscape character
- Corresponding harm to the visual amenity of local residents and visitors
- Cumulative harm with the seven consented turbines to the north west
- Unacceptable harm to the visual amenity of the residents of Overfields
The conclusions of this independent analysis are considered to be balanced and sound. It is apparent to anyone viewing the site that the landscape is typified by small scale features such as hedgerows and small blocks of woodlands, has small fields and a rolling nature. The locality does not have large scale manmade interventions and the landscape is historically relatively undisturbed, complex and intimate. When viewed in isolation and within its context it is highly attractive with views out across to higher ground to the north and east and consequent views across it from this high ground. The high sensitivity rating of this landscape to large scale turbines identified in the landscape sensitivity analysis undertaken in 2009 is readily apparent.

The proposed turbine will stand in isolation in a sloping field. At up to 100m to blade tip it will be out of scale with any other feature in the local landscape. This will, it is considered, in combination with the distracting nature of the rotation of turbine blades, make it an intrinsically incongruous, pervasive and harmful addition to the landscape. Any sense of landscape absorption of this structure is precluded by the comparison of scale with existing features and absence of any dramatic backdrop that might serve to visually contain it.

The turbine will be particularly conspicuous when viewed from the nearby A517 and would appear to dominate its small scale fields and woodlands surrounds. It would also in this view dominate Madge Hill which is the most significant local landscape feature.

When viewed from the north from the ridgeline footpath between Dayfield Brook and Henmore Brook the turbine would be overwhelming to this small scale intimate landscape with its intricate topography.

When seen from the lane that runs north from the A517 to Kniveton the turbine will be viewed in direct comparison with other landscape features. Its dominant scale at some five times higher than nearby trees will be all too apparent.

The turbine will be viewed from individual buildings, footpaths and the bridleway across Madge Hill to the north where its dominant scale will be evident.

The views from the south beyond the A517 in terms of impact upon the landscape are less damaging as the land falls away and only the upper sections of the turbine will be visible across the intervening landscape.

The formation of the access track to serve the turbine stretching across an open field on sloping ground will cause some additional harm to the character and appearance of the landscape but this is modest in extent compared with the harm caused by the erection of the turbine.

The impact on individual properties is discussed in (iii) below but needless to say the dominant impact identified above will impinge significantly on the enjoyment of residential properties in addition to the harm caused to the character and appearance of the landscape and visual amenity.

The proposal also needs to be assessed for its cumulative impact with other turbines already constructed and approved in the landscape. The 4 turbines erected at Carsington Pastures will soon be added to by 3 further turbines. Whilst these are
some distance to the north their scale is all too apparent and they are a significant component of views experienced in amongst others from the A517 looking north and for users of the popular footpath/cycle route along Carsington Dam. In the former view from the A517 the new turbine would be seen in the foreground with the Carsington turbines as the backdrop. The current sense of visual separation of the Carsington turbines on the distant horizon in a less sensitive landscape type from the application landscape type would be undermined by the introduction of a nearby turbine in the same view within a highly sensitive landscape character type as the turbines are directly compared. This will lead to a dilution of the current contrast between the small scale foreground landscape and larger scale distant landscape causing overall cumulative harm to the landscape.

The Council’s consultant in requesting further analysis from the applicants asked for images to be produced from the path along Carsington Dam, an extremely popular route for walkers and cyclists from where the Carsington turbines are readily visible. In their analysis the applicant’s consultants concluded that the impact of the Bradley Pasture turbine from this locality would be moderate adverse but considered that there would be no cumulative effects because the visibility would be ‘successive’ and ‘sequential’ rather than combined (as from Viewpoint 1). However, the Council’s consultant considers that successive and sequential effects can result in cumulative impacts. There is a clear contrast between the two landscapes when viewed from the Dam with the simpler larger scale of Carsington Pastures in comparison with the small scale intimate landscape of Bradley Pastures. The introduction of the turbine at Bradley Pastures on the horizon would serve to lessen the sense of contrast between the two landscapes. Whilst this cumulative impact is not significant in itself it is additive to the other adverse impacts.

Policy SF3 of the Local Plan and guidance within the National Planning Policy Framework give protection to the National Park and part of this protection extends to safeguarding the setting of the Park. This has been a key consideration in assessing other schemes within the district where turbines were proposed on high ground very close to the Park boundary. In this instance the National Park is 4.1km away and the intervening landform contains a significant area of higher ground at Madge Hill. At this separation, and with the intervening landform, whilst there may be distant views of the turbine from localities on high ground such as Thorpe Cloud the limited nature of these and distance involved means that the impact on the setting of the National Park is not a significant adverse impact in this case.

In summary, on landscape impact, notwithstanding the analysis undertaken by the applicants, it is considered that the proposed turbine will have substantial adverse impacts on the character and appearance of the landscape. These substantial adverse impacts will be experienced by the local community and by visitors as they travel through the landscape by car and on foot on local footpath routes. This harm caused by the turbine itself is exacerbated by the cumulative harm that will result in combination with the approved turbines at Carsington Pastures both in views from the south where they are seen in the same view and from important path routes such as that along Carsington Dam where the cumulative impact will lead to a loss of distinction between the different landscape character areas.

The substantial harm that will result to the character and appearance of the landscape is considered to put the proposal in conflict with Policies CS5, CS6, SF4 and NBE8 of the Adopted Local Plan and Policies DMP2, DMP6 and SP3 of the
emerging Local Plan. The proposal is also considered to conflict with the Council’s
guidance on Landscape Sensitivity Assessment for Renewables in the Peak District
Sub Region (July 2009), guidance in paragraphs 97, 98 and 109 of the National
Planning Policy Framework and paragraph 15 of the Planning Practice Guidance for
Renewable and Low Carbon Energy.

The substantial landscape harm identified and conflict with plan policy will be
weighed in the balance in reaching an overall judgement on the schemes planning
merits in the concluding section of this report.

(ii) The Impact on Heritage Assets
The applicant’s Environmental Impact Assessment has done a thorough job in
recognising the designated heritage assets in the wider locality. The impact on
heritage assets are essentially ones on their setting and the applicant’s Landscape
and Visual Impact Assessment has, it is considered, picked up on and represented
through the photomontages, a good summary of the impacts.

The Council’s landscape consultant was asked to review impacts on heritage assets
as part of her brief and her view is that the applicant’s assessment is a fair reflection
of the impacts on heritage assets and none of the impacts are significant in EIA
terms. The significance of the heritage assets will not be subject to significant impact
and there will be no significant cumulative impact.

The greatest impact is experienced by the nearest listed building at Bradley Pastures
to the south west of the turbine. From site inspection of this asset the main elevation
faces east and between the farmhouse and turbine are a range of other buildings and
to the west of these a belt of trees. Whilst there may be some views of the turbine
through this intervening screening the moderate adverse impact identified is
representative.

The listed buildings at Bradley Hall and Church of All Saints are identified as
experiencing Up to Slight / Slight Adverse impacts. This is considered a realistic
assessment given the distance, orientation and intervening topography.

The listed building to the north at Upper Hallfields and Atlow Moat have potentially
the clearest views of the turbine. However, these are farm groupings centred around
a localised management of the landscape and the distances involved mean that
impact on their setting is correctly identified as up to moderate adverse and up to
slight adverse respectively.

Listed buildings and the Conservation Areas further afield suffer lesser impacts on
their settings because of their separation from the turbine and these are no more
than slight adverse impacts. The same applies to local archaeological interest at
Bradley Park Bowl Barrow and the Medieval settlement and open field system north
of Old Hall, Hulland.

The Development Control Archaeologist initially raised some concern over the
applicant’s assessment of the impact of the turbine on the historic landscape of the
locality which he considers should be viewed as an undesignated heritage asset.
Further analysis was requested and a holding objection lodged. The applicant has
responded to this holding objection and following further consideration the
Development Control Archaeologist considers the impact insufficient to warrant a sustainable objection.

Overall, in terms of impact on heritage assets, none of the impacts are considered of a magnitude where they would be a basis for rejecting the scheme. The relevant plan policies and national guidance which protects heritage assets is, therefore, not contravened.

(iii) The Impact on the Amenity of Nearby Residential Occupiers

The two principal impacts that are usually associated with large wind turbines in close proximity to dwellings are the overbearing and pervasive impact of turbines where they are close to dwellings and of a size and proximity so that they represent an unpleasantly overwhelming and unavoidable presence in the main views from a house or garden and their impact in terms of noise nuisance. The issue of noise is dealt with separately below. Other factors such as shadow flicker can be relevant and are considered briefly later in this report.

The closest property to the proposed turbine is the bungalow called Overfields. This property fronts the A517 but has its garden and main habitable room windows to the north. As the landscape slopes away to the north, residents of the property currently enjoy impressive views of the landscape looking north with the complex and intimate immediate landscape framed by Madge Hill and Carsington Pastures on the horizon.

The turbine proposed would become dominant in this main view from the property by reason of its proximity and scale. It would, with its physical presence and the pervasive nature of the rotating blades, become an overwhelming and unavoidable presence and seriously undermine the residential amenity currently enjoyed by the occupants of Overfields.

The Council’s consultant has considered this impact and drawn on the conclusions of other Inspectors considering single turbines on appeal at Kelmarsh, Northamptonshire and Tiverton, Devon. In these cases, which involved smaller turbines at 78m and 61m and 740m and 400m separation respectively from affected dwellings, the Inspectors considered the relationship of the main habitable rooms and gardens of dwellings to the positioning of the turbines. They concluded that the turbine impacts would be conspicuous and imposing and be so oppressive as to make the living conditions of residents unacceptably unattractive such that permission should be refused.

The consultant has rightly recognised the comparable impacts in this case and considers that the proposed turbines would make Overfields an unattractive and unsatisfactory place in which to live. Whilst there is no defining guidance on acceptable separation objective assessment suggests that the impact on the residents of Overfields is a significant adverse impact of this development which puts it in conflict with Policies CS5 and CS6 of the Local Plan.

The neighbouring property to Overfields is Bradley Pasture bungalow. The applicant’s LVIA assesses the impact on this property and having due regard to the presence of garden structures and the orientation of rooms, considers the impact of the turbine not to be overbearing. The Council’s consultant concurs with this view. The rear elevations of Bradley Bungalow has a bedroom and spare bedroom window. The garden has a shed and tree close to the northern boundary which will partially
screen views of the turbine. Whilst these conclusions of landscape consultants are not challenged the residents of Bradley Bungalow will be readily aware of this 100m turbine when they utilise the rear garden and whilst the harm caused may not be so overwhelming to justify refusal in its own right, there will be significant harm to their amenity.

Properties at Bradley Pastures lie to the west of Bradley bungalow. They are a mix of farmhouse, barn conversion and new build. Whilst they lie in close proximity the impact of the turbine upon their amenity is mitigated to some degree by the presence of an intervening block of woodland. Whilst they would be aware of the turbine and would get intermittent views, the impact is not seriously detrimental.

Ryefields lies on the opposite side of the A517 at approximately 500m separation. To the north of the A517 in this location is a block of woodland. Whilst views of the turbine will occur from the front of the dwelling given that the main garden to this house lies to the south and views to the north are filtered by the woodland the harm to amenity is not of the same magnitude as that experienced by Overfields.

Bradley Lodge lies 560m to the south east of the proposed turbine on the south side of the A517. The intervening landscape is marked by hedgerows and trees and a block of woodland lies immediately to the left of the direct line of sight. When these factors are considered along with the fact that the site sits substantially lower and Bradley Lodge main windows do not face north west the impact on amenity is not considered to be significantly adverse.

Properties in the wider locality will have varying degrees of visibility of the turbine with those to the north having the most complete view. However, any oppressive overbearing impact is mitigated by separation.

In conclusion, on this point, substantial adverse impact on residential amenity is limited to the two bungalows immediately to the south and in the case of Overfields this impact on amenity, because of its orientation and positioning of habitable rooms, will seriously undermine the amenity of its residents and make it an unpleasant place to live.

(iv) The Noise Impact

The Planning Practice Guidance for Renewable and Low Carbon Energy in paragraph 30 makes it clear that in assessing the noise impacts of wind energy developments, Local Authorities should utilise 'The assessment and rating of noise from wind farms' (ETSU-R-97). This sets out standards for how background noise levels should be assessed at the nearest noise sensitive properties and then sets limits for day time and night time noise related to this. The sound power output of turbines at different wind speeds is then overlaid on this.

Normally speaking if a turbine proposal is ETSU compliant there would not be a sound basis for objection in terms of noise nuisance although this does not equate to turbines being inaudible.

The noise survey work in this case was carried out following liaison with the Council’s Environmental Health Officers and background surveys were carried out at Overfields and Ryefields as the nearest noise sensitive properties. Environmental Health Officers consider these background readings to be representative of the locality.
The noise assessment submitted suggests that the development will be ETSU compliant for both day time and night time noise limits and as the predicted noise levels lie below background levels at each property no noise nuisance should result.

One of the letters of representation has highlighted the potential for properties at Bradley Pastures set away from the road to have lower background noise levels and hence be more sensitive to turbine noise. Whilst this could be the case the view of Environmental Health Officers is that any difference is unlikely to be more than 1dB and on this basis the turbine would still be ETSU compliant such that objection cannot be justified.

In conclusion, the noise generated by the turbine would not be of a magnitude to generate any significant noise nuisance such that objection on this ground could be sustained.

(v) Impact on Nature Conservation and Fauna
The application is accompanied by an Ecological Report with Phase I habitat survey and survey reports on Bats, Badger, Great Crested Newt and Reptiles with a data search also carried out on Birds. Whilst it is located 130m from a Derbyshire Wildlife Site, the application site itself is of no particular botanical interest and in relation to protected species only the Badger Survey showed up results. However, no badger activity was recorded within 30m of either the access track or turbine site and no setts were within these zones. Whilst badgers are recorded within 2.5km they should not be affected by the development.

The ecological assessment has been reviewed by Derbyshire Wildlife Trust who are content that it has been properly carried out and on this basis have raised no objection.

Whilst members of the public have noted that the site is overflown by birds visiting Carsington Reservoir the bird interest in the area is not sufficient to trigger the need for a detailed survey. The proposal does not conflict with plan policies designed to protect flora and fauna.

(vi) Impact on Highway Safety
The applicants originally proposed utilising an existing field access to serve the turbine. However, this access has restricted visibility to the east which the Highway Authority highlighted as a concern.

In response to this concern the applicants have proposed moving the access 50m to the west where the alignment of the road means that access can be safely accommodated. Whilst this will involve hedgerow removal to form the access the alignment of the road is such that significant removal or cutting back beyond this should not be required. The applicants are willing to close up the existing field access once the new access is formed. On balance, the creation of the alternative access can be safely recommended in highway terms and should have only marginal impact on the character of the roadside.

A number of representations have raised concerns over the distraction caused to motorists particularly those travelling along the A517 and moving north along Yew Tree Lane to the junction with the A517. Whilst these concerns are understandable and the distraction of motorists cannot be ruled out in the absence of any expressed
concern from the Local Highway Authority this would not be a sound basis on which to resist the development which is considered to comply with Policy TR1 of the Local Plan.

(vii) The Quality of the Environmental Impact Assessment
Whilst the Council have taken exception with other wind farm EIA’s, primarily over the quality of landscape and visual assessments, the LVIA with later addendum in this case is considered to provide a comprehensive impression as to the overall impact. Whilst the document itself could be easier to use in the field it is considered ‘fit for purpose’ in allowing for the environmental impacts of the development to be analysed and quantified.

(viii) Other Issues
The other issues that generally arise in assessing wind turbines are shadow flicker, aviation safety and telecommunications.

The public in this case have highlighted shadow flicker as a potential source of nuisance and one that could jeopardise highway safety on the A517. Shadow flicker is the impact experienced from moving shadows created by rotating blades falling across house windows.

The applicants explain in their submission that the impact only occurs within 10 rotor diameters of the development which in this case amounts to 480m. They suggest that this takes properties in the locality out of the risk of any exposure to shadow flicker. Whilst the separation from dwellings stated appear to be at slight variance with the Council’s measurements any shadow flicker, which only occurs for dwellings to the north of turbines, will not impact on dwellings. The separation from the road suggests that any impact upon this will not occur either.

The relevant aviation bodies have been consulted in relation to the proposal. No objections have been received and on this basis the proposal can be safely accommodated.

Turbines have the potential to impact upon television reception but the usual way of addressing this matter is to require a survey of reception prior to construction as a baseline to refer back to should reception suffer.

The Planning Balance
The desirability of promoting renewable energy sources and on shore wind energy installations is not questioned. Government policy remains supportive of renewable energy development in order that greenhouse gas emissions are reduced to tackle climate change and energy security improved. However, notwithstanding this supportive stance all wind turbine developments need to be appraised on their planning merits which should have due regard to the development plan and other material consideration. The planning policy section of this report covers what are considered to be the relevant policies of the development plan and the weight that should be attributed to them. As the policies of the adopted plan are largely consistent with Government guidance in the NPPF they can be afforded significant weight. The emerging plan policies receive only limited weight because of their early stage whilst the National Planning Policy Framework, Planning Practice Guidance for Renewables and the Council’s Landscape Sensitivity Assessment for Renewables are all relevant material considerations. The renewable energy generated is also an important material consideration to be weighed in the balance.
Of the issues highlighted above, the development does not raise any significant concerns in relation to highway safety, ecology, noise, shadow flicker or aviation and the EIA adequately addresses the environmental impacts.

The key matters on which this decision hinges are the impact of the development on the character and appearance of the landscape and the impact on the amenity of nearby residential properties. These matters need to be balanced against the wider benefit of renewable energy production.

The application has been independently assessed by Landscape Consultants for the Council and they concluded that the development could not be accommodated without substantial harm to local landscape character and corresponding harm to the visual amenity of local residents and visitors. This harm would be compounded by cumulative harm with the seven consented turbines on Carsington Pastures.

This substantial harm to landscape character and appearance makes the proposal contrary to Policies CS5, CS6, SF4 and NBE8 of the Local Plan and Policies DMP2, DMP6 and SP3 of the emerging Local Plan. The proposal also clearly conflicts with the Council’s guidance on Landscape Sensitivity Assessment for Renewables (2009) and conflicts with paragraphs 97, 98 and 109 of the National Planning Policy Framework and guidance in paragraph 15 of the Planning Practice Guidance for Renewable and Low Carbon Energy.

In addition to this harm and conflict with the Development Plan, the proposed turbine would, it is considered, cause substantial and unacceptable harm to the amenity of the residents of Overfields because of its overbearing and dominant impact on their living conditions. This harm to the amenity of nearby residents is contrary to the aims of Policies CS5 and CS6 and runs contrary to the advice in paragraph 15 of the Planning Practice Guidance which stresses the importance of protecting local amenity and giving proper weight to this consideration in planning decisions.

These substantial harmful impacts of the development need to be weighed against the benefits identified which the applicants identify as up to 1531 MwH of energy generated per year with up to 1341 tonnes of CO₂ avoided, 15 tonnes of SO₂ and up to 46 tonnes of NOx.

Whilst these energy benefits are substantial they are not considered on balance to outweigh the clear and substantial harm that has been identified reflected in conflict with the Development Plan.

OFFICER RECOMMENDATION:
Refuse planning permission.

1. The proposed wind turbine by reason of its scale and location would be a visually intrusive, dominant and pervasive addition to the countryside in a complex and sensitive landscape incapable of visually absorbing it such that substantial harm would result to local landscape character and appearance. This harm would be further exacerbated by cumulative harm resulting in combination with the consented turbines on Carsington Pastures to local landscape character and appearance. As such, the proposal is contrary to Policies CS5, CS6, SF4 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005), Policies DMP2, DMP6 and SP3 of the emerging Local Plan and guidance in the National Planning Policy Framework (2012), Planning

2. The proposed turbine by reason of its scale and positioning in close proximity to the residential property Overfields and in direct view from its main habitable windows and its private garden would have a dominant, overbearing and oppressive impact on this property seriously undermining the residential amenity of its occupants. As such, the proposal is contrary to Policies CS5 and CS6 of the Adopted Derbyshire Dales Local Plan and guidance in Planning Practice Guidance for Renewable and Low Carbon Energy (2013).
13/00888/FUL  ERECTION OF CONSERVATORY AND GARAGE AT
58 WALTON CRESCENT, ASHBOURNE FOR MR. LEICESTER.

Town Council: Ashbourne  Date of receipt: 18th December 2013
Application type: FUL  Case Officer: Mr. A. T. Ecclestone

THE SITE AND SURROUNDINGS:
The application property is an old, semi-detached house, situated in a residential area on the
Park Avenue estate which lies to the south-east of Ashbourne town centre. The house is
stepped back and up from the road and has a parking area in front.

THE APPLICATION:
• The proposal is for a large, rear ‘L’ shape conservatory. It will cover almost the whole of
the rear elevation and will have a half-hipped style, lean-to roof. For the most part, it will
extend out to the rear by 2.9m. However, the houses have a stepped back, recessed
section close to their common boundaries, so the proposed conservatory will also
enclose this yard / ‘void’ area. Along the common boundary therefore, it will have a
1.7m high brick wall with small, obscure-glazed windows above, extending out to the
rear by 5.5m with a lean-to roof.
• A detached, flat-roof garage is also proposed to be positioned offset to the side of the
front garden. Its dimensions will be 3.7m by 5.6m and 2.3m high with a flat, Sedum type
roof. It will be partially set into the ground and will also require the removal of the front
boundary hedge and the laying of a drop-kerb.

RELEVANT HISTORY:
None.

CONSULTATIONS:
Local Highway Authority:
No objection, subject to Conditions.

Town Council:
No objection.

REPRESENTATIONS:
One letter of objection received which can be summarised as follows:
The proposed extension is too large and overbearing;
It will lead to loss of amenity;
It will overshadow, dominate and lead to loss of light;
It will create an atmosphere of being overlooked and overheard;
It will prevent us from building the same;
It will lead to loss of outlook and view;
The wall will create a sense of being hemmed in;
It will lead to loss of privacy. Glass will transmit more noise. The windows on top of the wall
will make me feel uncomfortable and insecure as the applicants will be able to hear me and I
them;
The wall of glass will be very intrusive;
Electric light shining through the windows on top of the wall will be intrusive, dominating and overbearing;
Would prefer the extension to be without the windows intrusive presence;
Obscure glazing could be removed by a future owner;
The proposed extension will lead to difficulties for access, maintenance etc. This implies a right of access across our property which we have no wish to grant;
Urge the applicants to consider an alternative.

Garage
Inappropriate location;
There appears to be a discrepancy in the plans;
No windows are shown and this should remain so;
I am concerned that it will be used as a workshop for a light engineering business – Sword Bicycles. Concerned about noise;
Concerned about the height. The existing garages are at a lower level and face onto the junction. However, the proposed garage will enclose the road. This is bad for the appearance of the road. A consistent feature of the estate is wide verges and open spaces between facing houses. The proposed garage would appear incongruous to the design of the estate. The garages will enclose the end of the crescent. Its profile will cut directly across the field of view;
Mr. Ecclestone indicated that the existing garages implied a precedent. However, I understand that these garages were built without planning permission. Do they set a precedent? I am concerned that a 'daisy-chain' of garages could develop;
The proposal is potentially dangerous due to the poor visibility of cars pulling out. Could this prejudice me in future?
The proposed garage will restrict the view of the road. This will create a negative impact, cutting number 60 off from the road and creating an atmosphere of isolation. This will lead to a feeling of insecurity and will prevent seeing the comings and goings on the cul-de-sac;
Moving the garage to the other side would go some way to alleviating these concerns and would reduce the road enclosing effect.
Concerned about the proposed sedum type roof. This will effectively raise the garage height, further obstructing my aspect. A more conventional roof covering would be more appropriate.

Statement
I refute their claim that my objections are unfounded and unfair. Their statement is false and misleading.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF1 Development Within Settlement Framework Boundaries
SF5 Design And Appearance Of Development
H2 Extensions to Dwellings
TR1 Access Requirements And The Impact Of New Development

National Planning Policy Framework (NPPF)
Chapter 7 – Requiring good design
The main issues to assess are the impact that the proposed extensions and alterations will have on the character and appearance of the house and also the impact that they will have on the surrounding area.

Dealing first with the proposed conservatory, this will be positioned at the back of the house. It will be large, covering almost the whole of the rear of the house and it will also enclose the stepped back, recessed area of the main house on the common boundary with the adjoining semi. For the most part, it will extend out to the rear by 2.9m. But for the stepped back, recessed section of the main house, it will form a 5.5m long brick wall along the common boundary with the adjoining semi. Despite its overall size and appearance, the proposed extension is not considered to appear disproportionate or to have an adverse impact on the main house. The lean-to, half hipped style, glazed roof and the large amounts of glazing also helps to contain its overall mass and reduce its impact on the surrounding area.

Whilst the neighbour is concerned about the adverse impact that the proposed extension will have in terms of overshadowing and loss of light, it is considered that the overall impact is mitigated by the sloping, glazed roof and the top section of windows. Whilst noting the neighbour’s preference not to have these top windows on her boundary, it is considered that this would make the appearance of the new wall even more overbearing. The top windows are considered to lessen the overall impact of the wall. The impact is considered to be similar to that of a boundary wall or fence which could legitimately be erected up to 2m in height along the common boundary without planning permission. Furthermore, the proposed extension will not be significantly greater than what could be built without planning permission as Permitted Development. The presence of the proposed extension is not considered to preclude the adjoining neighbour from having an extension of her own.

Turning to the proposed garage, this will be positioned in the front garden, off-set to the side on the other side of the pedestrian entrance gate. This will require some excavation of the ground. However, the existing parking space and pedestrian entrance gate will both be retained. It will be viewed in association with the other forward projecting garages of the neighbouring properties and due to the nature of the houses being stepped back and up, they are not considered to be significantly adversely affected by the proposal.

The objector’s comments are noted, but the garage is not considered to have an adverse impact on the amenity of the streetscene or to have a detrimental impact on the surrounding area.
On balance therefore, whilst it is noted that the proposed extensions and alterations will have some impact on the surrounding area, it is not considered to be to such an extent that refusal could be justified in this case.

OFFICER RECOMMENDATION:
Planning Permission be granted conditionally:

1. Condition ST02a: Time Limit on Full.

2. Before any other operations are commenced, a new vehicular access shall be created to Walton Crescent, in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.

3. The proposed garage shall be set back a minimum of 1m measured from the back edge of the fronting footway and shall have minimum internal measurements of 6m long x 3m wide.

Reasons:

1. Reason ST02a.


Note to applicant:
Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 538595 and ask for Mr. Andy Maltby) before any works commence on the vehicular access within highway limits.

This Decision Notice relates to the following documents:
Drawings numbered 1, 2, 3, 4, 5, 6 and 7, received by the Council on 18th December 2013.

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

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

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INTRODUCTION:
This application follows the granting of outline planning permission in November 2013 for residential development of up to 40 dwellings on the application site. The matter of access to the site was approved as part of the application. No other matters were approved although an indicative layout was included in the submitted details to illustrate how the site may be developed.

THE SITE AND SURROUNDINGS:
The application site is a 1.65 hectare field that is bordered by a belt of woodland next to Premier Avenue to the south, dwellings at the end of Lodge Farm Chase, Margery Close and Highfield Road to the west and fields to the east and north. The field both rises in an easterly direction and falls away into a valley where a watercourse runs, towards its southern boundary. Mature hedgerow and trees feature along the eastern, northern and southern boundaries of the field, whilst native vegetation sections of wall and fencing define the sites western boundary, next to existing dwellings and highways. Higher to the east of the field is a significantly larger group of fields that have a committee resolution to grant outline planning permission for up to 125 dwellings, 65 extra care units and associated infrastructure.

THE APPLICATION:
Approval is sought for ‘Reserved Matters’ details in respect to layout, appearance and scale for a residential development of 38no dwellings, public open space that includes a wildlife corridor and a balancing pond, and associated infrastructure. Originally, proposals for 37no dwellings were submitted, which included a mix of both two and three storey dwellings. Following negotiations with the applicants, in particular with regard to impact on the amenities of neighbouring residents, a revised layout has been put forward that enables one additional dwelling to be included. All the proposed dwellings will now be two-storey, available for sale on the open market due to a section 106 legal agreement securing amongst other provisions, a financial contribution towards affordable housing being provided off-site.

The amended proposals comprise a continuation of Lodge Farm Chase into the site in an eastern direction which stops short of the boundary with the adjacent housing development site. Provision is made for a potential footpath and cycle link through existing field boundary hedgerow. A second roadway will branch off in a southerly direction midway through the site. The dwellings themselves will be a mix of 2, 3 and 4 bedroom detached, semi-detached and terraced properties, some with shared access driveways.

A wildlife corridor is to run across the northern end of the site, whilst at the lower, southern end of the site, will be a balancing pond with informal amenity space.

Both these areas are to be transferred to a management company. The amended proposals also include landscaping details, which include for a native hedgerow to be...
introduced along the sites western boundary where it meets the rear gardens of some of the existing neighbouring dwellings.

The application is accompanied by a Design and Access statement, which includes references to design objectives, site context and ‘Building for Life’ Criteria.

**RELEVANT HISTORY:**
13/00256/OUT Residential development of up to 40 dwellings and associated public open space and infrastructure – Granted

**CONSULTATIONS:**
Local Highway Authority
Means of access has already been considered and determined at the outline planning application stage. The proposed layout has changed significantly from the original concept plans. The street(s) generally follows a more traditional estate layout with a 5.5m wide carriageway, flanked by 2m wide footways. A 5.5m wide, presumed shared surface street, is provided as a cul-de-sac off the main estate street, the side street forming turning facilities for the main route. The layout is generally acceptable in plan terms subject to some minor issues being addressed, relating to visibility sightlines, parking/driveway design and speed control measures. (The applicants have confirmed that their amended proposals address the Highway Authority’s comments).

The Local Highway Authority recommends relevant planning conditions to be imposed and provide advisory notes for the applicant’s attention.

Town Council
Object to the application. Members feel that this is very different to the outline planning permission and will have a negative impact upon the existing street scene. It is felt that the plans should be reviewed with regard to daylight for existing properties. Concern is also raised regarding surface water running off and the possibility of increased flooding in other areas. The Town Council would like to see a wildlife corridor and a buffer between the existing and any new development.

Derbyshire County Council – (Economy, Transport and Environment)
Refer to comments made in respect to outline planning application and trust that the financial contributions secured in the signed S106 agreement remain valid and will be taken forward. With regard to site layout and design the County Council, in their previous response noted the proposal to include a footpath link as part of the on-site design of the development proposal and suggested that this link be designed to accommodate both cyclists and pedestrians. To the south of the development site is an existing Greenway which is part of the SUSTRANS National Cycle Network Route 68. A footpath and cycle link as part of the on-site design would help to provide onward access to the wider Greenway and cycle network. It is noted that this link is not shown on the submitted plans and it is requested that further consideration be given to reinstating this link for pedestrians and cyclists.

Environment Agency
The submitted drawings continue to show the balancing facility to the south of the site and, as such, the Agency has no further comments to add to those contained in their previous correspondence.
Natural England
Based upon the information provided, Natural England advises that the proposal is unlikely to affect any statutorily protected sites or landscapes. Our standing advice should be assessed as the proposals have not been specifically assessed for impacts upon protected species. Opportunities for biodiversity and landscape enhancements should be incorporated where possible.

Derbyshire Wildlife Trust (DWT)
DWT refer to ecological surveys undertaken for this site and the adjacent site to the east which identified the presence of a badger sett, including a main sett and several outlier setts. The nearest of these is understood to be 40m from the edge of the development. The proposals include for a wildlife corridor along the northern edge of the development which provides a link to the open countryside to the east. It is considered that these measures should address any immediate concerns about badgers in relation to this application.

The proposed species mix and design for planting within the wildlife corridor to establish a thorny hedge and infill between trees is acceptable.

Informal amenity space is proposed, part of which is taken up by a balancing pond. It is stated that around the pond grassland will be established. DWT recommend that a native wild flower mix compatible with the local character of the area is used to create an area of wild flowers around the pond (a range of grasses and herbs are suggested together with species appropriate to wetter areas).

It is not clear how the informal amenity area or wildlife corridor will be managed. A plan setting out a programme of management for these areas sufficient to maintain them in a favourable condition for wildlife and people, with details of costs needed, to ensure the sustainability of this aspect of the proposal. A planning condition should be imposed to secure an appropriate management plan for these areas to be submitted to and agreed in writing prior to commencement of development.

Derbyshire Constabulary Crime Prevention Officer
Suggestions have been forwarded for improving surveillance over the parking provision on several of the house plots (the applicants have been advised of this with regard to the amended plans).

Derbyshire Fire and Rescue Service
Domestic sprinkler systems are strongly recommended. However, if this is not agreed to at this stage a minimum 32mm water supply capable of delivering the required volumes which would allow an installation to be carried out easier and at less cost, should this be proposed in the future.

REPRESENTATIONS:
A total of 63 representations have been received, including three different duplicate pro forma objection letters, from local residents. Their comments may be summarised as follows: -

- The development will result in unacceptable loss of light and privacy where it abuts existing houses.
- The existing extreme slope causes drainage and flooding problems.
• Cramming 37 properties onto half a field requires small footprint/high-rise dwellings. Due to the steep hillside, these will blot out all light from existing (down – slope) residences, some of which they immediately abut.

• Traffic on the steep, narrow, winding access road (Lodge Farm Chase) is already a problem, particularly in winter conditions. All attempts must be made to reduce traffic numbers.

• There is no need for over development – planning applications in the pipeline will offer about three times Ashbourne’s planned requirements. We have the luxury of allowing all our new sites to be designed as pleasant places for people to live.

• The proposed large and high terrace on the brow of a hill is wholly unacceptable and inappropriate. The site requires great sensitivity should any development be undertaken. Existing resident’s visual amenity should not be impeded. Even single storey houses will cause loss of privacy.

• The submitted documents are lacking in information and some contradict each other. For example, the spot heights on the outline application are different from those now shown on this latest application. Some documents are illegible and important information and plot numbers are obscured. Also there is no townscape drawing showing the effect on existing properties to the western and southern boundaries.

• The number of dwellings is far too high.

• At the Clifton Road junction, the view to the left is restricted and affected by parked cars.

• Surface water runoff has only partially resolved on Clifton Road opposite the Waterside Park Retail area. There has been recent flooding and the extra load to drainage alone is a cause for concern.

• A pedestrian crossing should be introduced to Clifton Road, ideally where a bus stop is located opposite the health centre.

• Sensitive design with extensive landscaping is vital. If the number of dwellings were to be reduced, dwellings with a maximum two storey height would be appropriate.

• The site sits on a substantial gradient in two directions. The proposals site new dwellings on the elevated ground above those residents living at the top of Margery Close. Rear gardens of these properties face east, receiving only morning sunlight through to midday.

• A buffer zone between the current gardens and the new dwellings should be introduced.

• The three storey properties are not in keeping with any nearby housing. The Design and Development Plan states that there are three storey buildings in Ashbourne, but these are only in the Old Georgian central part of town, not in this area.

• The ground level on site is 5m above my first floor level, plots numbered 17 and 18 would tower 13.5m above my first floor level. They are only 19m away from my house.

• There appear to be no plans of the detached garages, particularly plots 13 and 14 and between plots 16 and 17, what height will these be.

• It is noted that the north access road finishes in a blank end on the eastern boundary, indicating a link to the houses on the adjacent site that are proposed. If this happens, Lodge Farm Chase will become a rat run, with all the inherent problems of access.

• Injury caused by loss of light can be measured by the so-called ‘50/50 rule’. Case law indicates awards have been made in court and in my professional estimation a
case could be made against the proposed development. Injury has been deemed to have been made in where less than 50% obscuration has taken place, my calculations in respect to 18 Margery Close is that 51% of light would be obscured. There may also be a case when the development is assessed against the ‘Building for Life’ criteria particularly criterion 6a: efforts for a dialogue with the developer have failed.

- Under ‘social and neighbourhood constraints’ in their Design and Access statement, the developers state that ‘views across the site from the surrounding residential properties should be mitigated by the sensitive design and siting of buildings, open spaces and structural planting’, but this has not been adhered to in the design of the site.
- The developers give themselves a green light on a selection of points from the ‘Building for Life’ booklet. However, item 6 in the booklet ‘working with the site and its context’ recommends ‘being a considerate neighbour. Having regard to the height, layout, building line and form of the existing development at the boundaries of the development site’. This is not mentioned in their document and has clearly not been done.
- The ‘Building for Life’ criteria referred to by the applicant is selective in which points it addresses. The proposals do not satisfy numerous requirements of the criteria and the Building Research Establishment (BRE) document ‘Site Layout Planning for Daylight and Sunlight’.
- If this site has to be developed access from Highfield Road would seem more sensible.

POLICIES:

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
H9: Design And Appearance Of New Housing
H12: Alternative Provision For Affordable Housing Outside Settlement Frameworks
NBE5: Development Affecting Species Protected by Law Or Are Nationally Rare
NBE6: Trees And Woodlands
NBE7: Features Important In The Landscape
NBE8: Landscape Character
NBE12: Foul Sewage
NBE24: Archaeological Sites And Heritage Features
NBE26: Landscape Design In Association With New Development
NBE27: Crime Prevention
TR1: Access Requirements And The Impact Of New Development
TR8: Parking Requirements For New Development
CS8: Provision Of Community Infrastructure
L6: Outdoor Playing And Play Space In New Housing Developments

Derbyshire Dales Local Plan – Pre-Submission Draft:
Development Management Policy 1 : Development within Settlement Framework Boundaries
Development Management Policy 6 : Landscape Character
Development Management Policy 7 : Biodiversity and Geological Interests
Development Management Policy 8 : The Historic Environment
Development Management Policy 15 : Local Community Services and Facilities
Other:

ISSUES:
The application site is emerging local plan housing site SA10. The Council resolved to
give weight to these emerging local plan allocations and this was reflected in the granting
of outline permission. This application only concerns the reserved matters not previously
granted as the principle of development and any infrastructure requirements are secured
through the outline permission.

Given that this is a reserved matters application seeking approval of details any
representations that have been received in respect to the means of access to the site are
not relevant as this was dealt with when outline planning permission was granted. It is
also the case that ‘up to 40’ dwellings have been deemed to be appropriate, hence the
proposed 38 no dwellings should not be considered to be an ‘overdevelopment’ of the site.
The relevant considerations relate to design, layout, materials and, as details have been
submitted as part of the negotiations between the applicants and Council planning officers,
proposals for landscaping are now included.

The following issues are considered to be the principal planning considerations: -

Impact on neighbouring residents
Clearly, the most sensitive part of the proposed development is that which borders the
sites western boundary where some eleven existing dwellings are located. Most of these
properties have rear gardens, which, immediately outside of their homes are at an
appreciably lower level than their eastern boundary. The application site continues to rise
beyond this boundary area. The initial layout for this application introduced a block of 3no,
three-storey dwellings, the side elevation of which would have been less than 7m from the
boundary of the nearest neighbouring dwelling on Margery Close. This, together with the
three-storey design, which was also being proposed elsewhere upon the site, was not
considered to be appropriate, both in terms of impact and context for this undulating field
site. The amended layout and house types have resulted in only two-storey dwellings now
being proposed. Plots 4, 5, 6 and 7 have rear gardens over 10m in length to the boundary
with the existing dwellings along Margery Close and a new native hedge is to be
introduced along this boundary. It is considered that this should assist in minimising the
impact on the existing resident’s amenities with regard to daylight and privacy, and the
aims of the Adopted Local Plan Policy H9 have been appropriately addressed in the
amended proposals.

Design and Layout
The amended proposals are considered to be a significant improvement when compared
to the originally submitted scheme. Dwellings have been re-orientated to present a more
coordinated street-scene and sense of place, with better appreciation of the undulating
nature of the site. The submitted plans now include a range of sectional elevations
enabling better appreciation of how dwellings relate to each other and the spaces in between. A turning head, previously missing from the earlier proposals, is introduced towards the eastern edge of the site which, with an extended hard standing improves how parking spaces can be negotiated by future residents and visitors. It can be seen from the comments of the Local Highway Authority that the design of the estate and property parking areas are considered to be satisfactory, particularly as minor issues that were highlighted have now been addressed by the applicants. Garden sizes are considered to be proportionate to the range of house types they will serve and detached garages that are now set back from the street-scene will afford the dwellings due presence. In the context in which these dwellings are located, as an extension to an existing residential cul-de-sac, the quality of the layout overall is considered to be in accordance with the aims of the Adopted Local Plan Policy H9 and the advice at Part 7 of the National Planning Policy Framework ‘Requiring Good Design’.

Housing Mix
As previously mentioned, the proposed dwellings comprise a range of house types of 2, 3 and 4 bedroom properties. This mix of house types takes advantage of the sites contours. Hence, whilst some parts of the development may have its own particular identity, it is considered that, as amended, the housing types will integrate well with each other across the entire site.

Open space
Policy L6 of the Local Plan concerns the provision of outdoor playing and play space in new housing developments. The policy is not unduly prescriptive and requires the development to layout appropriate levels of outdoor playing space commensurate with the size and scale of the development. For reasons relating to both protected species and drainage, the proposed housing will be accommodated between open spaces along the sites northern and southern sides. The northern area is a wildlife corridor which relates to the presence of badgers on the adjacent site and is intended to retain a foraging area for the species. Existing trees are to be retained and access for maintenance will be available along two shared driveways between the new housing. At the southern end of the site will be the balancing pond/informal amenity space which will also have retained trees along the southern boundary of the water. Both of these areas are to be transferred to a management company, something that a planning condition may be imposed to secure. Based on the submitted proposals, it would appear that retained trees will not pose any concerns in respect to their proximity to proposed dwellings, both in terms of structural integrity and future shading. As such, there are no concerns with regard to Local Plan Policy NBE6, the proposed landscaping may be dealt with by an appropriately worded planning condition, in accordance with Policy NBE26 of the Adopted Derbyshire Dales Local Plan (2005). Within its context and bearing in mind the potential for a much more substantial open space on the housing site to the north, which will be linked by footpaths and cycleways, it is considered that adequate open spaces will be available to future residents.

Footpath/ Cycle Links
The comments from Derbyshire County Council in respect to a footpath and cycle link have been referred to the applicant for consideration. They advise that the potential footpath link to Highfield Road as indicated on the outline master plan was considered as part of the reserved matters application. However, the applicants considered that the link would not be practicable due to the topography within this area of the development. It is also the case that the highway does not meet the boundary which means it would not be possible for them to provide a link within land that is not within their control.
Notwithstanding this, the applicants are continuing with the potential footpath and cycle link to the larger housing development site along the eastern boundary of the proposed development.

Conclusion
The representations from the Town Council and local residents are noted, a number of which relate to either matters that have been previously been considered i.e. in the outline planning application or to the originally submitted proposals in this application. However, the revised plans substantially address previous concerns particularly with regard to impact upon the residential amenities of neighbouring residents. Accordingly, subject to appropriate conditions being imposed the recommendation of approval may be given in respect to this application.

OFFICER RECOMMENDATION:
Recommendation for approval subject to the following conditions: -


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

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

4. Before any other operations are commenced Lodge Farm Chase shall be extended into the site for a distance 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 new estate street has been constructed.

5. 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 (revised) application drawings to conform to the County Council’s current residential design guide, constructed to appropriate gradients to base level, drained and lit in accordance with the County Council’s current residential design guide, constructed to appropriate gradients to base level, drained and lit in accordance with the County Council’s specification for new housing development roads. The streets being fully constructed, with surface courses applied to carriageways and
footways, in a timescale to be agreed in advance with the Local Planning Authority or within 6 months of occupation of the 35th dwelling, the subject of this application.

6. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents, visitors, service and delivery vehicles (including secure covered cycle parking), laid out, surfaced, drained and maintained throughout the life of the development free from any impediment to its designated use.

7. Individual and shared driveways to the new estate street shall be provided with 2.4m x 25m visibility splays (measured up to 1m into the carriageway at the extremity of the sightline) in either direction, the area in advance of the sightlines being maintained for the life of the development free from any obstructions to visibility over 1m high (600mm in the case of vegetation) relative to the nearside carriageway channel level.

8. Individual and shared driveways shall be provided with 2m x 2m x 45 degree pedestrian inter-visibility splays on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

10. No gates, or any part of their opening arc, shall be permitted to open out over public highway limits. Any gates should therefore open into the site only or be set back into the site an appropriate distance from the public highway limits.

11. The proposed driveways to the new estate streets shall be no steeper than 1 in 14 for the first 5m from the nearside highway boundary and no steeper than 1 in 10 thereafter.

12. 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 and 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.

13. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: -
   i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
   ii. include a timetable for its implementation; and
   iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory
undertaken and any other arrangements to secure the operation of the scheme throughout its lifetime

14. DM01 : All materials to be approved - General

15: DM25 Windows / Door Frames ....50mm

16. SD4: Drainage – Provide Before Development

17: PD10 Permitted Development

18. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time, as specified in writing by the Local Planning Authority. No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2005): Trees in Relation to Construction, has been submitted to and approved in writing by the Local Planning Authority, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

19. 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 part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

20. DM31a : Details of Boundary Walls

21. DM23 : Design Details (External Fixtures)

22. LA15a : Submission of Landscape Management Plan

23. The development/details permitted by this permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision B, dated 28 March 2013, Ref: 13153/FRA&DS, undertaken by BPS consulting and the following mitigation measures detailed within the FRA:
a) Limiting the surface water run-off generated on the site so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - Sections 3.4.2 to 3.5.3, 3.8.2.2, 3.8.3.4 and 3.8.5, including the provision of an open water surface water balancing pond as shown on Drawing No. 13153/SK4000.

b) Improvement/protection and maintenance of the existing on site watercourse will be provided, by the provision of a minimum 4m easement on the North side of the watercourse - Section 3.7.2.

c) All development to take place outside of the flood plain of the adjacent ordinary watercourse, as established by this FRA - Section 3.7.1.1.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

24. On site operations shall not begin 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 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 discharge rate and storing 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.

25. Details of all detached / link attached garages shall be submitted to and approved in writing by the Local Planning Authority. The garages shall be constructed in accordance with the approved details.

Reasons:

1. For the avoidance of doubt.

2-13. In the interest of highway safety in accordance with the aims of Policy TR1 of the Adopted Derbyshire Dales Local Plan.

14. DM01 in accordance with the aims of Policy SF5 and H9 of ADDPL
15. DM25 in accordance with the aims of Policy SF5 and H9 of ADDPL
16. SD4: in accordance with the aims of Policy SF4 and H12 of ADDPL
17. PD7 in accordance with the aims of Policy SF5 and H9
18. LA5a in accordance with the aims of Policy NBE6 and NBE26 of the ADDLP
19. LA13A in accordance with the aims of Policy NBE26 of the ADDLP
20. DM31A in accordance with the aims of Policy SF5 and H9 of the ADDLP
21. DM23 in accordance with the aims of Policy SF5 and H9 of the ADDLP
22. LA15a in accordance with the aims of Policy SF5 and NBE26 of the ADDLP

23. In the interests of flood control in accordance with guidance contained within the National Planning Policy Framework (2012).

24. To ensure suitable drainage of the site in accordance with guidance contained within the National Planning Policy Framework (2012).

25. For the accordance of doubt.

Footnotes:
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 siting, layout and scale of the proposed dwellings.

2. This permission relates to the following documents:
   Amended Plans: -
   - Rydall – drawing No. 2048011 rev A
   - Darwin – drawing No. 3078011 rev A
   - Radcliffe – drawing No. 4198011 rev A
   - Crompton – drawing No. 4138011 rev A
   - Orwell – drawing No. 3098011 rev A
   - Glenmuir – drawing No. 4088011 rev A
   - Darwin DA – drawing No. 307Da8011 rev A
   - Hawthorn – drawing No. 3048011 rev A
   - Planning layout drawing No. LFC/PL/01 C Rev C
   - Site Sections LFC/SS/01 A – Rev A

   and
   - Design and Access Statement dated November 2013
   - 1:1250 Scale red line plan – drawing no HSF/RLP01
   - 1:20/1:50 Scale Heras Fencing Tree Protection detail – drawing no SDF/29

3. Notes from the Highway Authority: -
   - 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

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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 Planning and Housing Services Of Economy, Transport and Environment at County Hall, Matlock (tel: 01629 580000 and ask for Mr I Turkington).

- 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.

- Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the new estate street 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 gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

- 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, Telephone 01629 580000.

- Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets 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.

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

- 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 soakaways for highway purposes is generally not sanctioned.

- 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 Planning and Housing Services of Economy,
Transport and Environment at County hall, Matlock (tel: 01629 580000 and ask for the New Roads and Street-works Section).

- The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

4. The applicant's attention is drawn to the attached copy correspondence received from the Derbyshire Wildlife Trust in respect to planting species.

5. Conditions 12, 14, 16, 20, 22 and 24 of the Approval are conditions 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.

6. The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request or £28 where the related permission was for extending or altering a dwelling house or other development in the curtilage of a dwelling house. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.
THE SITE AND SURROUNDINGS:
The application relates to an existing mixed livestock farm holding located in an area of fairly isolated hillside within Atlow Parish. Access is from the B5035 to the northeast of Kniveton village along Winn Lane, which is initially surfaced before it becomes a rough track leading to Atlow Winn Farm. Approximately 200m before the farmhouse and its associated buildings is a separate group of timber and metal agricultural buildings with several of the structures extending a little way down the hillside. These premises are named ‘Atlow Winn Barn’.

Specifically, the application relates to a small plot of ground adjacent to the existing buildings at Atlow Winn Barn.

THE APPLICATION:
The application seeks permission for a log cabin for a temporary period of three years for an agricultural worker, namely the applicant, to reside in. The cabin will measure 12m x 12m and have an apex roof to a height of just under 4m, both side elevations will have a veranda, with the lower side being elevated to account for the sloping nature of the site. A modest domestic curtilage is proposed.

The application is supported by an agricultural appraisal, farm accounts and a planning statement. The statement advises that the applicant lived at Atlow Winn Farm for most of his life and took over its management when his parents retired. However, due to family circumstances, the farm was broken up in 2008, but the applicant managed to retain part of the agricultural holding, centred on the group of farm buildings adjacent to the proposed dwelling. The dwelling is sought to re-establish a viable agricultural business on the site and will enable the applicant to live on the holding, in the interest of animal welfare, farm management and security.

The agricultural appraisal advises that the applicant owns 9.4 hectares of land upon which the buildings stand and he also farms another 68 hectares surrounding his land, which is permanent grassland. The stocking levels at the time of submission are stated to be as follows:

- 169 ewes
- 140 lambs
- 10 suckler cows
- 1 in calf heifer
- 6 yearlings/cows
- 10 calves

The functional justification for stock and farm management is given as 2921.12 man hours per year, with 2200 man hours per year given to be the average. The appraisal also refers to health and safety issues regarding animal sickness, particularly when lambing and calving is taking place. With no on site living accommodation, there is no one to deal with any serious complications for an animal and its offspring. A dwelling will provide on-site...
security and enable the farm to become more competitive and keep abreast of modern techniques in agriculture.

RELEVANT HISTORY:
None

CONSULTATIONS:
1. Local Highway Authority
   No objections subject to agricultural occupancy restriction to ensure accommodation will be ancillary to existing farming operations already carried out at the site and on the basis of a temporary period.

2. Parish Council
   No response received

3. Head of Environmental Health
   No objections

4. Environment Agency
   The proposed development does not represent a high risk to the environment nor will it offer significant environmental benefit. As such the agency does not wish to comment any further on the proposal.

REPRESENTATIONS:
A member of the public has indicated his 'support' in respect to the application.

POLICIES:
1. Adopted Derbyshire Dales Local Plan (2005)
   SF4: Development In The Countryside
   SF5: Design And Appearance Of Development
   H4: Housing Development Outside Settlement Framework Boundaries
   H9: Design And Appearance Of New Housing
   EDT13: Buildings Associated With Agriculture, Forestry Or Other Rural Based Enterprise
   NBE8: Landscape Character
   NBE12: Foul Sewage
   NBE26: Landscape Design In Association With New Development
   TR1: Access Requirements And The Impact Of New Development
   TR8: Parking Requirements For New Development

2. Derbyshire Dales Local Plan Pre-Submission Draft (June 2013)
   Development Management Policy 2 – Development in the Countryside
   Development Management Policy 3 – Agricultural and Rural Workers
   Development Management Policy 9 – Design and Appearance Of Development
   Development Management Policy 22 – Access and Parking

3. Other
   National Planning policy Framework (March 2012)
ISSUES:

1. Adopted Local Plan Policy SF4 is supportive of development that is required to serve the essential requirements of agriculture. Such development must be appropriate in nature and scale, preserve or enhance the character and appearance of the countryside and minimise any adverse impact on the local environment. Policy H4 is supportive of rural enterprise worker dwellings where it has been demonstrated that they are essential for the business to function properly. The Derbyshire Dales Local Plan Pre Submission Draft is at a relative early stage of preparation and, as such, its emerging policies may be afforded only limited weight at this time. Notwithstanding this, Paragraph 55 of the National Planning Policy Framework also provides guidance regarding rural dwellings. It advises that ‘to promote sustainable development in rural areas’, housing should be carefully located. New isolated houses should only be allowed in special circumstances such as ‘the essential need for a rural worker to live permanently at or near their place of work’. New rural worker dwellings should therefore be both ‘essential’ and ‘sustainable’.

2. The accompanying agricultural appraisal and supporting information has been referred for independent analysis to a firm of agricultural consultants which the Council engages where it is considered cases for rural worker dwellings are not clear cut. The case put forward on behalf of the applicant has been analysed by the consultants and their findings may be summarised as follows: -

   i. **Essential need**
   Whether or not a worker needs to live on site is based on the assessment of a number of factors such as the frequency of out of hour problems, the ability of the resident worker to identify and be able to address those problems, the severity of any loss if the problem is not addressed, and the potential for notification of problems to a worker living away from the site. Times when out of hours are most likely to occur is during periods of calving and lambing.

   ii. **Calving and Lambing**
   Some livestock will require assistance when giving birth at short notice. Hence, it is essential that a stockman regularly monitors stock in the lead up to calving and lambing, both day and night, with regular inspections occurring out of hours.

   iii. **Young stock**
   Ensuring calves and lambs receive colostrum within the first few hours of birth is vital to ensure they receive antibodies needed to support their immune system. It may be necessary to clear mucus from the mouth and nose of lambs to allow the animal to breathe, and the naval will be disinfected to prevent infection.

   iv. **Post calving and lambing**
   Animals that have given birth need to be monitored for signs of infection as they are susceptible to illnesses such as milk fever, which occurs due to low levels of calcium in the animal’s blood. If this goes undetected it can lead to coma and death, hence early detection and treatment can avoid stock losses.

3. Due to the low number of ewes on the holding, lambing is likely to be condensed to only a few weeks of the year. The Caravan Sites and Control of Development Act 1960 at Schedule 1 Paragraph 13, allows for the stationing of a caravan on agricultural land to accommodate a person or persons employed in farming operations during a ‘particular season’. Hence, any seasonal need for a worker to be
on the holding during the short lambing period could be covered under these provisions. The enterprise has approximately 10 suckler cows; the calving cycle is not specified within the supporting documents. With no bull, it is likely that one is brought onto the holding to run with the cows during the spring months. Low stock and no bull infers that year round calving is not practiced. Hence, this may/will be concentrated to a few months a year, and, even if year round calving was practiced, the low stock numbers would not give rise for a need to live on the holding. Whilst monitoring is not confined to the calving and lambing periods, the essential need for a worker to live on site will be reduced, as out of hours requirements are less frequent. After lambing the animals will be turned out to graze away from the farmstead.

Housing of cattle during winter would not give rise to a full time presence, due to low stock numbers making the likely out of hour incidences infrequent. Even with six yearlings (cows) being kept within the sheds for finishing, this number of livestock does not justify the need for a worker to live on site.

4. Whilst the National Planning Policy Framework does not require an applicant to apply for a temporary dwelling, it is often the case that such accommodation is initially sought, particularly on new or expanding farming enterprises. The size of this holding, assuming there is security of tenure on the rented land, has the capacity to support a greater number of livestock than is currently present on the holding. However, in this particular case no details are given that indicate that the applicant proposes to expand the livestock enterprises and increase stock numbers. Financial sustainability is an important assessment of an enterprise’s future sustainability and longevity. Accounts have been submitted for three years, namely year end accounts for 31\textsuperscript{st} March 2012, 31\textsuperscript{st} March 2011 and 31\textsuperscript{st} March 2010. The 2012 accounts show a profit of £16,134 before drawings and the 2011 accounts a profit £4,708 before drawings. A loss of £713 in 2009 changed to a profit of £174,406 in 2010. However, this was down to contract work and disposal of a tangible fixed asset. Removal of the tangible asset from the accounts provides a net profit of £23,177. Removal of the contract work reduces the net profit to £4,121.

The 2011 accounts clearly do not show a profit to sustain an agricultural worker, which, including overtime, amounts to circa £19,000. The 2012 profit figure is after a profit of £5,000 on the disposal of a tangible fixed asset, although it is not clear from the submitted accounts what this disposal was. However, if this were to be deducted on the basis that it was a ‘one-off’ income, not directly related to the trading performance of the business, then the profit before drawings is just over £11,000. This is significantly less than the average farm workers wage, and the minimum agricultural wage, which at that time was in the region of £14,000. Had the profit of £16,000 been directly related to trading income, it is arguable that this could be sustainable based on the size and scale of this holding. Apart from the lambing period, which will only be a couple of weeks, and the week or so period when hay/silage are being made, only limited overtime would be required.

5. Accordingly, once the disposal of a fixed asset has been disregarded, any profit is substantially less than the minimum agricultural wage. Hence, it is the Councils Consultant’s considered opinion that, after viewing the applicants’ accounts, the enterprise is unlikely to be financially sustainable in regard to providing an adequate return on his full-time labour input. Notwithstanding this, regardless of whether or not the business is financially sustainable, it is considered that there is no functional need to live on site at this particular holding.
6. Based on the above and after due consideration, a recommendation of refusal is regarded to be appropriate.

OFFICER RECOMMENDATION:
Planning permission be refused.

1. The proposed agricultural workers accommodation does not, in the absence of a proven case on functional need and financial sustainability, constitute an acceptable form of development in the open countryside and would represent unwarranted residential encroachment in open countryside. As such, the development is contrary to the aims of Policies SF4 and H4 of the Adopted Derbyshire Dales Local Plan (2005) and the advice at Paragraph 55 of 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.

2. This permission relates to the following documents:
   - Planning statement by Stephen Heathcote dated August 2013
   - Agricultural appraisal by Chandler Watson Consultancy Ltd dated 27th September 2013
   - Year-end accounts by Coates and Partners Limited for 2010 – 2012, received on 8th October 2013
   - 1:2500 Scale site location plan, drawing no 7853-06, dated August 2013
   - 1:10000 Scale site location plan, drawing no 7853-05, dated May 2013
   - 1:100 Scale Proposed log cabin (plan and elevations), drawing no 7853-07, dated August 2013
APPLICATIONS TO CARRY OUT WORKS TO PRESERVED TREES:

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<td>46 PREMIER AVENUE, ASHBOURNE CROWN LIFTING OF ASH Reasons: Excessive shading To grow organic vegetables Risk of dead branches falling</td>
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<td>3 CATHERINE COURT, ASHBOURNE CROWN REDUCTION OF 3 LIMES Reasons: Overpowering the garden of the neighbouring property Dropping branches</td>
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<td>14</td>
<td>IVY BANK HOUSE, CHURCH STREET, BRASSINGTON PRUNING OF BEECH Reasons: To reduce weight &amp; wind resistance To reduce heavy shading</td>
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<td>14</td>
<td>Highbank House, Hillside Lane, Brassington Pruning of Lime Reasons: Low branches over roof and drive To improve light to house</td>
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<td>Land to the East of Kiln Croft House, West End, Brassington Pollarding of Lime Reasons: Extensive decay in upper crown</td>
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<td>MINING HIGH, MINING LANE, CARSINGTON FELLING OF TREES Reasons: Signs of Dutch Elm Disease</td>
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<tr>
<td>BRASSINGTON</td>
<td>JACKDAW COTTAGE, BOWLING GREEN, BRASSINGTON FELLING OF SPRUCE Reasons: Low amenity value Excessive size in exposed location Potential threat to property or neighbouring property</td>
<td>PENDING DECISION</td>
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<tr>
<td>OSMASTON</td>
<td>STAGSFELL HOUSE, MOOR LANE, OSMASTON FELLING OF ASH Reasons: Included fork Risk of failure of leaning limb</td>
<td>PENDING DECISION</td>
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<tr>
<td>KIRK IRETON</td>
<td>THE OLD COTTAGE, MAIN STREET, KIRK IRETON FELLING &amp; PRUNING OF TREES Reasons: Recently died Over tall for garden To allow access for mowing Unsightly In accordance with good horticultural practice Over-mature &amp; badly neglected Cracking neighbouring outbuilding Leans over boundary Inappropriate species for a garden Base of trunk rotten</td>
<td>PENDING DECISION</td>
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<td>OSMASTON</td>
<td>CROFT HOUSE, MOOR LANE, OSMASTON FELLING OF CYPRESS Reasons: Non-native species Too close to house Fear of subsidence or possible drainage issues</td>
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<td>LONGFORD</td>
<td>MILLBROOK, MAIN STREET, LONGFORD FELLING OF CHERRY Reasons: Touching the house Risk of leaves blocking drains Roots around drain</td>
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<td>CONS. AREA</td>
<td>ADDRESS/PROPOSED WORKS</td>
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<tr>
<td>SHIRLEY</td>
<td>THE OLD RECTORY BARN, DERBY ROAD, SHIRLEY FELLING OF WELLINGTONIA Reasons: Outgrown location Leaning Damaged brick retaining wall</td>
<td>PENDING DECISION</td>
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<tr>
<td>ASHBOURNE</td>
<td>DOVE HOUSE RESIDENTIAL HOME, 1 DOVE HOUSE GREEN, ASHBOURNE FELLING OF TREES Reasons: Not given</td>
<td>PENDING DECISION</td>
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</tbody>
</table>

**OFFICER RECOMMENDATION:** That the report be noted.
**SOUTHERN AREA PLANNING COMMITTEE – 11 March 2014**

**PLANNING APPEAL - PROGRESS REPORT**

Report of the Director of Planning & Housing Services

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<td>ENF/11/00009</td>
<td>Turlow Fields Farm, Turlow Fields Lane, Hognaston</td>
<td>LI</td>
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<tr>
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<td>Spring Cottage, Rodsley</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
</tbody>
</table>

**WR** - Written Representations

**IH** - Informal Hearing

**LI** - Local Inquiry

**HH** - Householder

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decisions
Inquiry held on 28 January 2014
Site visit made on 27 January 2014
by P N Jarratt BA(Hons) Dip TP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government
Decision date: 7 February 2014

Appeal Refs: APP/P1045/C/13/2199894 and APP/P1045/C/13/2199896
Land at Turlow Fields Farm, Turlow Fields Lane, Hognaston, Derbyshire, DE6 1PW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Adrian Hunter and Amanda Annie Hunter against an enforcement notice issued by Derbyshire Dales District Council.
- The Council's reference is ENF/11/00009.
- The notice was issued on 13 May 2013.
- The breach of planning control as alleged in the notice is the material change of use of an agricultural building in the position marked ‘X’ on the plan attached to the notice to a primarily general industrial use.
- The requirements of the notice are to permanently cease the use of the building in the position marked ‘X’ for industrial purposes including steel fabrication except for that which is ancillary and directly related to the existing agricultural activity on the site.
- The period for compliance with the requirements is 30 days.
- The appeal is proceeding on the grounds set out in section 174(2) (c) and (d) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: the appeals are dismissed and the enforcement notice is upheld

Preliminary matters
1. All oral evidence to the inquiry was given on oath.

2. Although the appeals had originally been made on grounds (c) and (d), the appellants withdrew the ground (c) appeal at the commencement of the inquiry.

The Appeal Site and Planning History

3. The allegation relates to a building on Turlow Fields Farm the subject of the Agricultural Prior Notification Procedure in 1999. It was described as a steel framed implement, maintenance and storage shed being 12.19m x 5.48m with a ridge height of 3.66m and constructed of blockwork and cladding and having a corrugated box profile roof.

4. I was able to view the interior of the shed, along with other buildings, at my site inspection. The interior was laid out largely in accordance with the Drawing No. TFF-GA-001 submitted as Exhibit AJB2 of Mr Barry’s proof of

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1 LPA ref AGNOT/99/10

www.planningportal.gov.uk/planninginspectorate
evidence. It is modest sized building which contained a lathe, pedestal drill, workbench, band saw and cutting table, racking on which lengths of steel were stored, racking for tool storage, a vehicle lift and a maintenance pit. There were a number of small turned and engineered steel parts representing current engineering activity in the shed. To the rear of the shed is a loft area used for general storage.

5. Adjacent to the shed is an old container with agricultural related items inside, a store containing a band saw used for steelwork, a hay store and various cattle sheds containing livestock. In addition to the farmhouse is a holiday cottage although this is currently used by a member of appellants’ family.

6. Adjacent to the farm is The Homestead, occupied by Mr Stait and his partner. It is in relatively close proximity to the farmyard and the shed. Adjacent to the original vehicular access to the farm is Turlow Cottage and opposite is another dwelling, Birch Grove.

7. Following complaints received about the use of the building over a period of time, three Planning Contravention Notices (PCN) were served on the appellants in June 2002 (PCN1), in March 2011 (PCN2) and in December 2012 (PCN4). A Section 330 Requisition for Information Notice served on the appellants was not responded to. A PCN was also served on UK Slipform Ltd in January 2012 (PCN3), for whom Mr Hunter was carrying out steel fabrications. The failure of the company to respond to the PCN and the non completion of the Section 330 Notice led to court action with a hearing due to take place in June 2012. The case was withdrawn as it was understood by the Council that the appellants would apply for a Certificate of Lawfulness (LDC). However solicitors for the appellants informed the Council in November 2012 that they had advised their clients not to apply for a certificate (Document 3) on the basis that the industrial use of the shed was immune from enforcement action. PCN4 was served in the light of the solicitor’s response and it requested details of the accounts relating to both the agricultural activity and the fabrication business.

The appeals on ground (d)

8. An appeal on this ground is that at the time the notice was issued, it was too late for enforcement action to be taken against the matters stated in the notice. The relevant date for considering whether the use has become lawful through it having commenced and continued for a period of 10 years is 13 May 2003. The burden of proof is on the appellants and the standard of proof is the balance of probabilities.

PCN1

9. The Council’s Enforcement Officer, Mr Maw, spoke with the appellants in June 2002 and took a series of photographs (Document 1). This was followed up by PCN1. In response to questions in PCN1, the appellant indicated that ‘the building is primarily (my emphasis) used for the maintenance of tractors, farm implements, the manufacture of all kinds of fabricated structures required on this holding and the storage of the same, also the storage of small hand tools and animal and veterinary equipment and farm related equipment’. The response continues to indicate that other work is carried out in the building for

2 Appendix 1 of Mr Maw’s proof of evidence
repairs to farm machinery and structures and farm related equipment. It goes on to say that all kinds of materials are brought in from elsewhere for the upkeep of the farm and for the sub-contract maintenance work i.e. machinery parts, steel tubing and box section. The response adds that deliveries occur about once a week and the suppliers are identified.

10. In considering the response to the PCN, the Council decided that there was no breach of planning control as they relied on what Mr Hunter had said in respect of what the building was primarily used for. The Council’s judgement appears reasonable in the light of the response that Mr Hunter had provided.

11. I am satisfied from the evidence that the shed was being used primarily for agricultural purposes with an ancillary use for steel fabrication at the time of PCN1 in June 2002.

The Accounts

12. The Council originally sought access to the business accounts in response to PCN2 but they were only provided by the appellants in response to PCN4 some 26 months later.

13. The appellants acknowledge that there has been a breach of planning control but that the breach occurred prior to 13 May 2003 and intensified up to that date. The accounts show that there was an increase in the value of contract work between July 2002 and July 2003 of about 213% reflecting work for Slipform\(^3\). Since then there have been spikes in the value of work rising to over £134k in 2008, £197k in 2011 and £235k in 20012. The value of the Slipform work has varied from year to year, whereas the increase in the value of Hi Peak Feeds contract work has been more regular.

14. Evidence on behalf of the appellant from Mr Hopkinson of Hi-Peaks Feeds indicates that much of Mr Hunter’s work took place at the mill. In 2001, Mr Hunter would spend an average of one day each week carrying out maintenance work at the mill but by 2013, he averaged about 3 days a week at the mill. Mr Barry of Slipform has also indicated that much of the work carried out by Mr Hunter that does not require the use of the lathe is carried out at Slipform’s premises and that Mr Hunter sub-contracts out some of the work to an engineering company in Lincoln. Mr Barry considers that it is only through adopting this approach that has allowed Mr Hunter’s turnover to have increased so markedly when the capacity of his premises is so limited.

15. In general terms, the turnover of a business over a period of time would normally provide a reasonable indication in the level of activity within business premises. However, in this case, the accounts are not a reliable indicator of changes in the intensity of the use of the appeal premises; they are only an indicator of changes in turnover of the business. The evidence does not allow me to have a clear picture of the split in the value of the non-agricultural work carried on in the appeal premises either before or after July 2003 or its value when carried out elsewhere. Consequently, any conclusions drawn from the accounts so far as they relate to a change in the character of the use of the premises must be treated with considerable caution.

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3 Mr Barry in his evidence indicated that he was Engineering Manager for Slipform International Ltd but in 2007 became Managing Director for UK Slipform Ltd. Both companies perform the same function. He has been placing orders with Mr Hunter since about 1998.
The Complaints

16. Mr Stait, resident of The Homestead and on behalf of the Council, stated in evidence that by June 2002, noise levels associated with the shed became significant, with lorries delivering steel regularly and a fork lift being used. In July 2003, further noise of grinding, hammering and welding and steel deliveries became more significant and that two people were working at the premises. However, in late 2004 and part of 2005, noise levels decreased significantly and there was less use of the shared access lane or fork lift, which is alleged to have moved away from the appeal premises. Mr Stait believed that this was because the steel fabrication business had moved to Badger Moor Farm. In cross examination, Mr Hunter accepted that he had rented space at Badger Moor Farm for two years because he was receiving deliveries of big loads of steel that could not be handled at Turlow Fields Farm. He claimed that no steel fabrication was being carried out at Badger Moor Farm, only the finishing of goods involving a welder and the fitting of attachments to the ends of tubes.

17. Following a quieter period at the farm in 2004 and 2005, noise levels increased in 2006 and 2007 but in September 2010 noise levels became excessive and a teleporter arrived on site. Mr Hunter explained that the teleporter was used both for agricultural purposes and the steel fabrication business.

18. It is clear that Mr Stait has been subject to disturbance over a long period of time although this has fluctuated as a result of changes in the degree of activity at the appeal premises. He has kept a log of the many letters he has sent to the Council since July 2003, a log of lorry movements into the farm between 2004 and 2013 and has photographed many of the vehicle movements associated with steel deliveries. His evidence shows that for the number of lorries that he or his partner was able to observe, these increased significantly from late 2010 onwards.

19. I note also that other complaints have been made to the Council by Mr Stait regarding noise nuisance and also in reference to other matters in connection with the appellants.

Intensification of Use

20. The evidence indicates that the level of industrial use has varied over a number of years and I am satisfied that it has increased in a manner that has led to the premises primarily being used for industrial purposes not directly related to its use as an implement, storage and maintenance shed for agricultural purposes. However, when this intensification led to the use changing from being an ancillary use to become the primary use of the building is more difficult to establish.

21. The appeal premises are modest in size and have a limited capacity to accommodate machinery, steel stock or work in hand. The 2002 photographs (Document 1) show a somewhat disorganised layout within the building with a lathe under a sheet. The 2013 photographs (Document 2) show a more organised layout, a larger new lathe, a band saw table and a vehicle lift. In addition to Mr Hunter, one full time and one part time persons were employed in 2003 and this has not changed.
22. It appears from the evidence about levels of activity and traffic movements that whilst there may have been an intensification of the use in earlier years, there was a significant change in the intensity of the industrial use in 2010 when Mr Stait observed extended hours of operation, although I note that Mr Hunter claims that there was no extension of working. The acquisition of a new lathe since that time would also have provided a capacity for facilitating a more intensive use. The evidence suggests that it is probable that the character of the use would have changed in 2010 from an ancillary use to a primarily industrial use and this would have represented a material change of use requiring planning permission.

Continuity of use

23. In addition to showing that a material change of use has occurred for a period of ten years since the breach, it is also necessary to show that it has been a continuous use throughout that period. On the basis of Mr Stait’s evidence regarding the level of activity at the appeal site in 2004/05 and the use of premises at Badger Moor Farm in connection with the steel fabrication business, it is probable that had the Enforcement Officer visited the site in that period, he would have concluded that little had changed since PCN1 and there would have been insufficient evidence for the Council to have taken enforcement action. This represents a break in the continuity of the use over the relevant 10 year period.

Conclusions

24. Under oath Mr Hunter said that so far as his responses to the PCNs were concerned ‘the answers were guarded as I did not want to be shut down but I did not want to lie’. The evidence indicates that there is a conflict between these responses and those he gave at the inquiry. He appears to have been very selective about the facts, particularly as at the inquiry he stated that at the time of PCN1, more than half of the use of the shed was for non-agricultural fabrication, yet his response to PCN1 contradicted this. Furthermore his response to PCN2 in April 2011, when being asked what the deliveries of steel were used for, he indicated that it was for the fabrication and maintenance of all kinds of steel structures used on farms (my emphasis). No reference was made to the fabrication of steel for non-agricultural purposes upon which he subsequently relies to support his case. Consequently I find that I can only attach limited weight to his evidence notwithstanding the representations of Mrs Salisbury of Turlow Bank and Mrs Wheelden, a former resident of Birch Grove.

25. I have concluded from the evidence that the shed was being used primarily for agricultural purposes with an ancillary use for steel fabrication in June 2002. I find it most unlikely that the character of the use changed so dramatically over the following 11 months to the start of the ten year period such that the industrial use became the primary use of the appeal premises.

26. I have had regard to the test set out in Thurrock\(^4\) that a use can only become lawful if it has continued throughout the 10 year period and issues of intensity, the character of the use and any periods of inactivity will be relevant.

\(^4\) Thurrock BC v SSETR & Holding (COA 27.2.02, J1080)
27. I have also had regard to the Herefordshire case\(^5\) cited by the appellants which found that although an intensification of use was capable of constituting a material change of use, the correct test was whether that intensification had changed the character of the use.

28. Even had the material change of use occurred earlier than 2010, the transfer of part of the industrial process to Badger Moor Farm in 2004/05 would probably have reduced the level of activity at the appeal site such that enforcement action would not have been possible. Consequently a continuous use has not been demonstrated.

29. I conclude that, on the balance of probability and on the evidence before me, a material change of use of the appeal premises for industrial purposes had not become established, nor had it continued, for ten or more years before the date of the enforcement notice. The appellants have not discharged their burden of proof and consequently the unauthorised development is not immune from enforcement action through the passage of time.

30. For the reasons given above I consider that the appeals on ground (d) should not succeed.

**Formal decisions**

**APP/P1045/C/13/2199894**

31. The appeal is dismissed and the enforcement notice upheld.

**APP/P1045/C/13/2199896**

32. The appeal is dismissed and the enforcement notice upheld.

**P N Jarratt**

INSPECTOR

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\(^5\) Herefordshire County Council v SSCLG, Metal and Waste Recycling Ltd [2012] EWHC 277 (Admin)
APPEARANCES

FOR THE APPELLANT:

Phillip Barber of Counsel Instructed by John Sutcliffe, Solicitor, Wykes O'Donnell Williams
He called
Adrian Hunter Appellant
Andrew James Barry Managing Director, UK Slipform Ltd
Stephen Hopkinson Former Mill Manager, Hi-Peak Feeds
Christopher John Belfield Accountant

FOR LOCAL PLANNING AUTHORITY:

Jack Smyth of Counsel Instructed by the Solicitor to the Council
He called
Bryn Maw, Planning Enforcement Officer
John Bradbury BSc MA Development Control Manager
MRTP
Christopher Stait Neighbour

INTERESTED PERSONS:

Mrs J Salisbury Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1 Photographs dated 24 June 2002 (Appellants)
2 Photographs dated 22 April 2013 (Appellants)
3 Letter dated 21 November 2012 from Wykes O'Donnell Williams (Appellants)
4 Bundle of letters dated 20 August 2004, 1 August 2005 and 4 December 2006 from the District Council to the appellants (Appellants)
5 Bundle of documents relating to an ASBO incident diary (Appellants)
6 Closing Submissions on behalf of the appellants.
7 Herefordshire CC v SSCLG [2012] EWHC 277 (Admin) (Appellants)
8 Thurrock BC v SSETR [2001] EWHC Admin 128 (Appellants)
Appeal Decision

Site visit made on 6 February 2014

by Andrew Dale  BA (Hons) MA MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 February 2014

Appeal Ref:  APP/P1045/A/13/2204343
Workshop at The Paddock, Somersal Herbert, Ashbourne, Derbyshire DE6 5PD

- 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 J Harris against the decision of Derbyshire Dales District Council.
- The application ref. 13/00364/FUL, dated 22 May 2013, was refused by notice dated 23 July 2013.
- The development proposed is conversion of workshop to dwelling.

Decision

1. The appeal is dismissed.

Preliminary matters

2. The site address given on the planning application form and the Council’s decision notice refers to The Paddock. The planning appeal form refers to The Paddocks. At the site visit, the parties clarified that the former version is correct and I have therefore used it in the heading above.

3. On 6 February 2014, the appellant submitted a signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990. This offers a financial contribution towards the provision of affordable housing elsewhere within the Council’s area. I shall return to this later in the decision.

4. The appeal site lies within the Somersal Herbert Conservation Area. In determining this appeal, there is a statutory duty for special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Main issues

5. I consider the main issues in this case to be whether the proposal would represent acceptable development in the countryside, having particular regard to the national and local policies concerning the conversion and reuse of buildings to provide residential accommodation, and if so, whether the proposal would make an appropriate contribution to the delivery of affordable housing in the Council’s area.
Reasons

Background

6. The appeal concerns a detached single storey workshop to the east of The Paddock, the appellant’s dwelling. The site lies towards the centre of the scattered group of buildings that make up the core of the small hamlet of Somersal Herbert and the conservation area. The workshop was originally built in 1979 and subsequently extended in the 1980s. Up until December 2012, it was used by the appellant for storage and office purposes in association with a specialist nut and bolt distribution business. The proposal is to convert the workshop to a one or two bedroom dwelling. An existing domestic double garage would be available for use by the occupiers of the proposed dwelling.

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all development proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the Derbyshire Dales Local Plan (LP) adopted in November 2005. The National Planning Policy Framework (the Framework) is a material consideration. This advises at paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). I have also had regard to the Council’s Somersal Herbert Conservation Area Character Appraisal 2012 (CACA) and Affordable Housing Supplementary Planning Document 2006 (SPD) and to the appellant’s UU. The Council mentions an emerging Local Plan but given the stage it has reached the Council does not seek to rely upon its policies.

Whether the proposal would represent acceptable development in the countryside

8. Whilst the appeal site is set within the small built settlement of Somersal Herbert, the surroundings are distinctly rural and the site lies well outside of any defined Settlement Framework. The appeal site is, in policy terms, within the countryside and I saw nothing to contradict the Council’s view that future occupants would be heavily reliant upon the private car to access facilities, services and employment.

9. As such, LP Policy SF4 explains that development within the countryside will only be permitted if it falls into one of five categories and then satisfies three criteria. One of the categories is the acceptable reuse, adaptation or extension of an existing rural building. The first criterion is that proposals should be appropriate in nature and scale to a rural area. However, I do not read the word “nature” to be a reference back to the fact that a dwelling is being proposed in an unsustainable, countryside location as this would place a bar on virtually all conversions to residential use in the countryside and LP Policy H5 clearly allows for such conversions subject to certain criteria. I read the word “nature” as a reference to the basic features and character of a specific proposal in relation to its location in a rural area. In that context, there is nothing untoward about the nature of this proposal.
10. LP Policy H4 is actually written in a permissive way and allows housing outside of the Settlement Framework boundaries if it is judged to be essential to the operation of a rural-based enterprise such as agriculture or consists of affordable housing for an identified local need. LP Policy H5 is clearly of the most relevance to this issue.

11. The dispute between the parties centres on two criteria – (b) and (e) – in LP Policy H5. Criterion (b) requires the form, bulk and general design of the existing building or group of buildings to make a positive contribution to the character and appearance of its surroundings. Criterion (e) would allow the conversion of buildings to housing only where they are not suited for conversion to employment or tourism uses.

12. Judging from paragraph 3.31 of the LP, the inspiration for criterion (e) came from Planning Policy Statement 7: Sustainable Development in Rural Areas and the Derby and Derbyshire Joint Structure Plan. Those documents are no longer in force. The Framework adopts a different stance. One of its core planning principles is to encourage the reuse of existing resources, including conversion of existing buildings. To promote sustainable development in rural areas, the Framework at paragraph 55 does seek to avoid new isolated homes in the countryside unless there are special circumstances. One such special circumstance is where the development would reuse redundant or disused buildings and lead to an enhancement to the immediate setting. Whilst the Framework also aims to support a prosperous rural economy, there is no longer an outright preference for existing rural buildings to be used for economic development purposes, including tourism. In my view, this should override the more stringent approach evident in criterion (e) of LP Policy H5.

13. Although the workshop building dates from the latter half of the twentieth century, it has some distinguishing features. These include its L-shaped plan form, the long uninterrupted pitched roofs covered by Staffordshire Blue plain clay tiles and a concentration of openings along the elevation facing the yard. As such, the form, bulk and general design of the existing building is redolent of many traditional rural outbuildings and I judge that it makes a positive (albeit modest) contribution to the character and appearance of its surroundings within the conservation area.

14. I have read nothing in the CACA to reach a different view. The interpretation of LP policy in section 7 is noted but the building is not highlighted as a problem for the conservation area. Section 4 of the CACA actually contains a photograph of the outbuilding to illustrate where render has been used within the settlement. Again I do not identify any negative commentary. If the building does verge on being of bland appearance, as asserted by the Council, to my mind this is to do with the rather drab and grey coloured finish to the render that has been applied over the years. Whilst this may not have been a concern for the operators of the former business, I feel sure that any prospective residential occupiers would seek to apply a more attractive coloured finish such as white to match the white painted, smooth render on The Paddock itself. In any event, this matter could be covered by a planning condition.

15. Since the Framework advises that good design is a key aspect of sustainable development, I consider that criterion (b) of LP Policy H5 is not inconsistent
with the Framework even though its wording goes beyond what paragraph 55 of the Framework says. Even so, I have found no conflict with criterion (b).

16. The building is no longer being used. To that extent it is disused. The scheme would rely entirely on the reuse of the building; there would be no extensions, rebuilding or extensive alterations. I consider that a residential use would be more compatible with the predominantly residential character and appearance of the conservation area as a whole and the surroundings of the appeal site. Removing the potential for commercial vehicles and activity on the site and with planning conditions requiring landscaping and a new coloured finish to the render, the scheme would lead to an enhancement to the immediate setting of the building. The proposal would therefore comply with paragraph 55 of the Framework.

17. Given the lawful use of the building, it is by no means certain that there would be an increase in traffic generation. Moreover, any new business occupiers would be unlikely to be already resident at the site. The attractive roadside bank and hedgerow can therefore be retained without alteration. This added to my other observations above leads me to the view that the proposal would at least preserve the character and appearance of the conservation area.

18. Noting that all future cases must be examined on their own merits, I conclude that this proposal would represent acceptable development in the countryside, having particular regard to the national and local policies concerning the conversion and reuse of buildings to provide residential accommodation.

The delivery of affordable housing in the Council’s area

19. Consistent with the thrust of paragraph 54 of the Framework, LP Policy H12 indicates that where residential development is granted planning permission 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. Formal guidance on this process is provided in the Council’s SPD. This matter could not have been covered by a planning condition. In any event the appellant has now submitted a signed UU.

20. The appellant’s UU offers a payment of £20,000, this being approximately a third of the overall estimated cost of the conversion. The appellant considers it to be unreasonable to insist on payments any greater than a third of the budgeted cost of the conversion.

21. The Council is seeking an affordable housing contribution of £34,510 with reference to its SPD where the contribution is based on the local housing needs of the locality and the schedule of financial contributions, rather than on the costs of the conversion. There is a wide discrepancy between the figures promoted by the parties.

22. I accept that the dwelling is intended for the appellant’s grandson who lives at The Paddock and wishes to remain in Somersal Herbert. However, there is no mechanism in place to control that or the future occupation of the property in general. In allowing an open market dwelling in the appeal building, I consider that it is important that an affordable housing contribution be made given the clear need for such housing in the plan area. The SPD offers a consistent
approach for all cases to ensure that contributions are fairly and reasonably related in scale and kind to the developments proposed.

23. The SPD is sufficiently flexible to prevent planned development being stalled. Paragraph 9.8 of the SPD says that in the event that a developer does not consider that there is sufficient value in the development to make the level of financial contribution required, a financial appraisal of the site development costs and future values of the proposed development can be submitted which may be independently assessed under commission by the Council. It seems to me that the figures provided by the appellant fall short of being a rigorous financial appraisal of the costs and values. Not even estimates from builders have been submitted, let alone a detailed report from a chartered surveyor with expertise in construction costs and local property values. I find no material considerations that outweigh the need for the provision of a financial contribution in line with the Council’s SPD.

24. I conclude that the proposal would fail to make an appropriate contribution to the delivery of affordable housing in the Council’s area, in conflict with LP Policy H12, the Council’s SPD and the Framework.

Conclusion

25. Although the physical conversion of this building to residential use as proposed would be acceptable in principle subject to planning conditions, I consider that the failure to make an appropriate contribution to the delivery of affordable housing in the Council’s area rules out the option of granting planning permission. For the reasons given above and having regard to all other matters raised in the written representations, I conclude that the appeal should be dismissed.

Andrew Dale

INSPECTOR
Appeal Decision

Site visit made on 20 January 2014

by R Schofield  BA(Hons) MA MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 February 2014

Appeal Ref: APP/P1045/A/13/2203797
Holmelea Farm Cottage, Marston Lane, Doveridge, Ashbourne, Derbyshire, England DE6 5JS

• 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 Raymond Reeves against the decision of Derbyshire Dales District Council.
• The application Ref 13/00254/FUL, dated 8 April 2013, was refused by notice dated 11 June 2013.
• The development is change of use of agricultural land to domestic curtilage and the construction of a raised platform.

Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land to domestic curtilage and the construction of a raised platform at Holmelea Farm Cottage, Marston Lane, Doveridge, Ashbourne, Derbyshire, England DE6 5JS in accordance with the terms of the application, Ref 13/00254/FUL, dated 8 April 2013 subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.
   2) The development hereby permitted shall be carried out in accordance with the following approved plans: Reeves 01; Reeves 02; Reeves 03.
   3) No development shall take place until details of the materials and finish to be used in the construction of the raised platform 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 and maintained thereafter.

Preliminary matters

2. It was evident from my site visit that development had already occurred and, in relation to the design of the raised platform, differed from the plans. I am, therefore, dealing with the appeal on the basis of the plans as submitted.

3. The Council has not separated the change of use of the agricultural land from the raised platform. Consequently, I am dealing with the appeal on this basis.

Main Issue

4. The Council has not objected to the change of use of the agricultural land to domestic curtilage. Based on all that I have read and seen, I have no reason
to disagree with this. Consequently, the main issue is the effect of the raised platform on the character and appearance of the area.

**Reasons**

5. The site of the proposed platform is on the edge of a hamlet, where the land begins to fall away. It is set among a small grouping of trees, divided by the sunken lane, and mature roadside hedges. This situation gives the site a characteristic sense of enclosure from the wider landscape.

6. While the proposed platform would be two metres from the ground and seven metres wide, it would still be largely obscured from view when heading along the road towards the A50, due to the sunken lane and high hedges on the approach to the site. It would be more visible, albeit in passing, when leaving the hamlet. However, it would still not appear prominently due both to its situation among a grouping of trees and to the coverage afforded by the host tree’s branches and foliage.

7. Concern has been expressed about the platform’s visibility in winter. My site visit was undertaken when the trees were not in leaf. I am satisfied that, given its setting, construction of the platform from wood that weathers back to blend in with the muted brown tones of the leafless trees and hedgerows, or the use of appropriate staining, would prevent it from appearing stark in its situation. Similarly, while it may have a rudimentary appearance, this is not necessarily inappropriate in an informal rural setting. There is no reason, so long as it does not feature a variety of materials or colours, why the platform should appear untidy or haphazard.

8. Taking the above matters into consideration, I conclude that the proposal would not have an adverse impact upon the character and appearance of the area. I have considered the policies cited by the Council in their decision notice and I am satisfied that the proposal would not conflict with policies SF5 and NBE8 of the Derbyshire Dales Local Plan, which seek, among other things, to ensure that new development preserves the quality and character of its surroundings and landscape. Taking into account the small-scale nature of the proposal, I am also satisfied that it would not conflict with the fundamental objectives of policy SF4, which seek to ensure that appropriate development, including recreation, can be accommodated without detriment to the countryside.

**Conditions**

9. For reasons of character and appearance, I consider that it is necessary to ensure that details of materials and finish are secured. A condition setting a time limit for the commencement of development is necessary in the interests of proper planning. For the avoidance of doubt and in the interests of proper planning I am also imposing a condition requiring that the development is carried out in accordance with the approved plans.

**Conclusion**

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

*R. Schofield* INSPECTOR