2 May 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 13 May 2014 at 6.00 pm in the MAIN HALL, ASHBOURNE ELIM PENTECOSTAL CHURCH, THE WATERSIDE CENTRE, ASHBOURNE DE6 1DG (MAP ATTACHED). PLEASE NOTE CHANGE OF VENUE.

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS  The Committee is advised a coach will leave the ASHBOURNE ELIM PENTECOSTAL CHURCH at 2.20pm prompt - MEMBERS PLEASE ASSEMBLE IN THE FOYER. A schedule detailing the sites to be visited is attached to the agenda.

1. APOLOGIES/SUBSTITUTES

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

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING

8 April 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. 14/00137/FUL (Site Visit)  6 - 9
Single storey extension at 2 Stuart Close, Ashbourne.

4.2 APPLICATION NO. 14/00106/FUL (Site Visit)  10 - 14
Change of use of shop (Use Class A1) to restaurant (Use of Class A3) at Ashbourne Book Shop, 25 Dig Street, Ashbourne.

4.3 APPLICATION NO. 14/00152/FUL (Site Visit)  15 - 18
Single storey side extension at Callow Stables, Mappleton Road, Mappleton.

4.4 APPLICATION NO. 14/00129/FUL (Site Visit)  19 - 27
Erection of 10KW wind turbine (15.0 metres to hub and 18.5 metres to blade tip) at Mulino Lodge, Kniveton.

4.5 APPLICATION NO. 14/00098/FUL (Site Visit)  28 - 31
Porch extension at Horsley House, Kniveton.

4.6 APPLICATION NO. 14/00009/FUL (Site Visit)  32 - 45
Conversion and extension of barns to 2 No. dwellings at Overtown Farms, Overtown, Hognaston.

5. TREES PROGRESS REPORT – DDDC APPLICATIONS  46 - 47
To note a report on action taken in respect of trees in Conservation Areas and Tree Preservation Orders.

6. APPEALS PROGRESS REPORT  48 - 69
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 ELIM PENTECOSTAL CHURCH** at **2.20pm prompt** for the following site visits. **NB: MEMBERS TO ASSEMBLE IN THE FOYER.**

<table>
<thead>
<tr>
<th>Time</th>
<th>Application No.</th>
<th>Location</th>
<th>Requested by Ward Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.30pm</td>
<td>Application No. 14/00137/FUL</td>
<td>2 Stuart Close, Ashbourne</td>
<td>to enable members of the Planning Committee to assess the impact of the development on the residential amenity of the occupants of the dormer bungalow to the north.</td>
</tr>
<tr>
<td>2.55pm</td>
<td>Application No. 14/00106/FUL</td>
<td>Ashbourne Book Shop, 25 Dig Street, Ashbourne</td>
<td>to enable members of the Planning Committee to assess the issues involved.</td>
</tr>
<tr>
<td>3.10pm</td>
<td>Application No. 14/00152/FUL</td>
<td>Callow Stables, Mappleton Road, Mappleton</td>
<td>to enable members of the Planning Committee to assess the impact of the development on the character and appearance of the building.</td>
</tr>
<tr>
<td>3.40pm</td>
<td>Application No. 14/00129/FUL</td>
<td>Mulino Lodge, Knivetion</td>
<td>to enable members of the Planning Committee to assess the impact of the development on its surroundings.</td>
</tr>
<tr>
<td>4.20pm</td>
<td>Application No. 14/00098/FUL</td>
<td>Horsley House, Knivetion</td>
<td>to enable members of the Planning Committee to assess the impact of the development on the character and appearance of the building.</td>
</tr>
</tbody>
</table>
4.40pm Application No. 14/00009/FUL

Overtown Farm, Overtown, Hognaston

Requested by the Ward Member to enable members of the Planning Committee to assess the issues involved.

5.15pm Return

COMMITTEE SITE MEETING PROCEDURE

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

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

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

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

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

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

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

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

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

9. All persons attending are requested to refrain from smoking during site visits.
B: Ashbourne Elim Pentecostal Church, The Waterside Centre, Waterside Business Park, Waterside Road, Ashbourne, Derbyshire DE6 1DG Tel: 01335 344338

www.elimchurchashbourne.co.uk
THE SITE AND SURROUNDINGS:
2 Stuart Close is a large detached red brick and tile dwellinghouse within the defined settlement of Ashbourne. The dwelling was erected in the mid 00's and is situated within an estate of 126 houses. The estate comprises a mixture of house types, of varying scales, heights and designs.

At the rear of the property the land falls away towards the residential properties situated along Peak View Drive.

Immediately to the north of the property is no. 32 Peak View Drive, a dormer bungalow.

THE APPLICATION:
Planning permission is sought to demolish an existing conservatory and lean to extension at the rear of the dwellinghouse and to erect a single storey extension in its place. The extension will extend the full width of the existing dwellinghouse and project out 4m into the rear garden. The resultant building will incorporate a twin dual pitch roof design, with a box valley off set to one side. The dual pitch at the eastern end of the extension will cover a smaller section of the extension. The extension at its western end will incorporate a dual pitched roof with a wider span and greater ridge height.

The external walls of the extension will be constructed in red brick and the roof faced in Marley modern smooth tiles to match the existing dwellinghouse.

It is proposed to insert two sets of patio doors and a window opening in the elevation facing north, towards no. 33 Peak View Drive. Window openings are proposed in both side elevations and a single rooflight in the larger east facing roof plane.

RELEVANT HISTORY:
14/00015/CLPUD Certificate of Lawfulness for Proposed Withdrawn
Development - Single storey rear extension

07/00084/FUL Erection of conservatory Granted

02/10/0772 Residential development comprising erection of Granted
126 no. dwellings, garages, provision of open space
and associated landscaping with alterations to
vehicular access (approval of reserved matters)

CONSULTATIONS:
Local Highway Authority:
No objections to ancillary living accommodation.

Town Council:
No objections.
REPRESENTATIONS:
A letter of objection has been received from the occupants of no. 32 Peak View Drive to the north. The occupants of this property are concerned that the extension will contain two double glass doors, which will be positioned much closer to their property. Given the difference in levels it is considered that their privacy will be compromised. Concerns regarding surface water run-off have also been raised. The occupants note that the extension will cover a larger area, resulting in less garden area to absorb surplus water increasing the risk of localised flooding.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF1 Development within Settlement Framework Boundaries
SF5 Design and Appearance of Development
H2 Extensions to Dwellings

Derbyshire Dales Local Plan Pre-Submission Draft (June 2013)
Development Management Policy 1 – Development within Settlement Framework Boundaries
Development Management Policy 9 – Design and Appearance of Development

Other:
The National Planning Policy Framework (2012)

ISSUES:
1. The main issue to assess in the consideration of this application is the impact of the proposed extension on the amenity of the occupants of the dormer bungalow to the north. The siting, scale and simple design of the extension is such that it would not have a detrimental impact on the character and appearance of the existing dwellinghouse. It would read as a later, subservient addition to the principal building and will be built in materials to match. Whilst the neighbours’ concerns regarding surface water run-off are noted, rainwater would need to be harvested from the roof of the extension and transferred to a suitable drain, sewer or soakaway in order to meet building regulations approval.

2. 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 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. When planning permission was granted to redevelop the former school site for housing, the right to erect extensions within the curtilages of certain properties were removed to protect the living conditions / amenities of the occupants of the residential properties which sat close to the development site and at a lower level. No. 2 Stuart Close was one of the plots which had such rights removed by condition. The rear elevations of the properties sit approximately 23m apart. If the extension was allowed this distance would be reduced to approximately 20m (taking into consideration the loss of the lean to section which projects out 1m at ground floor level). Due to the difference in levels the ground floor windows of the application property overlook the
neighbouring properties first floor dormer windows, which serve three bedrooms. The proposed extension would project out no further than the conservatory, which has been recently demolished. Although the proposed extension would extend the full width of the existing dwellinghouse, it is not considered that the privacy of the occupants of no. 32 Peak View Drive would be so severely compromised, given the degree of projection and the views that are already experienced from the existing ground and first floor windows of the application property, that a recommendation of refusal could be sustained at appeal.

4. Taking the above into consideration it is considered that the proposed extension would satisfy the requirements of Policy H2 of the Adopted Derbyshire Dales Local Plan (2005). A recommendation of approval is put forward on this basis.

OFFICER RECOMMENDATION:
That Planning Permission be granted subject to the following condition:

1. ST02a: Time Limit On Full.

Reasons:

1. ST02a.

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 problems with the application and consent was granted without negotiation.

This Decision Notice relates to the following documents:
1:1250 Scale Site Location Plan;
1:500 Scale Block Plan numbered 9320/4;
1:50 Scale Ground Floor Layout and Elevations Plan ‘As at Present’ numbered 9320/P, and;
1:50 Scale Ground Floor Layout and Elevations Plan ‘As Altered’ numbered 9320/3 received by the District Council on the 28th February 2014.
THE SITE AND SURROUNDINGS:
The application property is situated in Ashbourne town centre, between Nigel's Butchers and The Coach and Horses public house. It is a relatively modern, brick-built building, but with a more traditional style shop-front.

THE APPLICATION:
The proposal is for a change of use from a shop to a restaurant. The restaurant would have the following opening hours:
- Monday 5.30pm – 11.30pm
- Tuesday 5.30pm – 11.30pm
- Wednesday 5.30pm – 11.30pm
- Thursday 5.30pm – 11.30pm
- Friday 5.30pm – 12.00am
- Saturday 5.30pm – 12.00am
- Sunday 5.30pm – 11.00pm

However, they have also indicated that they may also wish to open on weekends from 12pm – 3pm at seasonal times of the year.

RELEVANT HISTORY:
None.

CONSULTATIONS:
Local Highway Authority:
No objection.

Environmental Health:
No objection.

Town Council:
Object. This will cause issues with parking, it will have an adverse impact on the residents of Dig Street and a take-away service is not in the best interests in the Conservation Area.

REPRESENTATIONS:
8 representations and a petition have been received which can be summarised as follows:
- Concern about access of the building which adjoins my business. It is not feasible for access to the rear of the property. There is no access to take away any food, cooking waste etc. which the restaurant will accrue.
- Concern from an established restaurant about competition affecting their business. Whilst another restaurant is good for choice, competitive pricing, raising standards and is good for customers, it will impact on both of the restaurants. We are confident that our service and food will be able to keep our regular customers in the long term. But taking a short term hit in our business may not allow us to reach the long term.
- A new restaurant will impact our staff and their families, especially if we need to cut
down on staff or days worked. We feel that local people would not like to see another
hot food place on Dig Street and would rather see something else that brings
something new to the town. Sticky Fingers was innovative and brings character to the
town. Some people have signed a petition to oppose the application.

• Concerned about another restaurant affecting the trade of others. This could lead to
one of the others closing. Redundancy will affect mortgage and loan payments and
will greatly affect my family.

• I work in an established restaurant and the opening of a rival restaurant will have a
huge impact on the business and will affect my position. A decrease in the business
will impact on my part-time position. To save costs, the business will have to let go of
staff and part-time staff would be the first to go. This will have a huge impact as it is
hard to find work to suit my part time requirements.

• Endorse the view of the Town Council. There is no parking to the frontage of this
shop; undoubtedly there will be traffic disorder if planning permission is granted.
Visitors will not adhere to any parking regulations in force. A further takeaway service
does not best serve the interest of the Conservation Area. There will be disruption to
established trades. Excessive noise levels will be increased. What would the trading
hours be? Would this be outside those in current use? There is no storage area for
bins, further health / environmental hazards.

• Concerned about parking issues – there are limited spaces available with all of the
current food outlets on the road. Please consider the negative effects that another
restaurant will have if permission is granted.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF1 Development Within Settlement Framework Boundaries
S4 Non Retail Uses In Primary Shopping Frontages
NBE21 Development Affecting A Conservation Area

Derbyshire Dales Local Plan Pre Submission Draft June 2013
Development Management Policy 1 – Development within Settlement Framework Boundaries
Development Management Policy 8 – The Historic Environment
Development Management Policy 14 – Development within Town and Local Centres
Strategic Policy 7 – Retail, Leisure & Other Commercial Development

National Planning Policy Framework (NPPF)
Chapter 2 Ensuring the vitality of town centres
Chapter 11 Conserving and enhancing the natural environment –
paragraphs 122 and 123 regarding pollution and noise.

 ISSUES:
The main issues to assess are the impact that the proposed change of use from retail to
restaurant will have on the vitality and viability of this part of Ashbourne town centre and the
potential for adverse environmental impacts from its operation. Whilst the Town Council have
highlighted concerns over the Conservation Area, re-using an existing building for another
use suitable for a town centre is not considered to impact on the Conservation Area’s
class or appearance.
The premises is within the Primary Shopping Frontage area, as designated in the Local Plan Proposals Map for Ashbourne town centre. This seeks to resist non-retail uses in town centres where they would have an adverse impact on the vitality and viability of the town centre. The change of use to a restaurant could potentially have an impact on the town centre insofar as it is only intended to be open in the evenings and night time. Subsequently, it will be closed during the daytime when the majority of the shopping activity takes place. However, it is understood that this particular unit has stood vacant for some time and this is already a mixed use part of the high street. On balance therefore, it is not considered that the re-use of this unit will have a detrimental impact on the vitality and viability of this part of Ashbourne town centre. The change of use to a restaurant is not considered to have an adverse impact on the retail activities in the area.

With regard to the environmental impacts of the application, the Council’s Environmental Health Officers have also raised no objections to the application. The potential for noise or disturbance already exists. The Coach and Horses Public House, which is just next door and a nearby restaurant, both have late night opening licences. The proposed opening times in this case are not therefore considered to be unreasonable for a town centre location. Although details of the extraction flues / vents have not yet been submitted, they will be in due course and assessment will be made as to whether or not they will require formal planning permission. It is considered that these can be accommodated without adversely affecting amenity.

The objections have been taken into consideration whilst processing this application, but the issues raised are not considered to provide sufficient grounds to refuse this application. The concerns about traffic problems are noted, but the Local Highway Authority have raised no objection to the application. The concerns raised about access and waste disposal have been noted and put to the applicant. He has been in discussions with the Council’s Environmental Health Officers and they have raised no objections. The petition and concerns raised from a rival restaurant about the threat of competition have also been noted. However, this is not a Planning matter that can be taken into consideration whilst processing this application.

Other points raised include details of the new signage and extraction / air conditioning units. The applicant will provide details of the proposed new signs, prior to submitting an application for Advertisement Consent. The extraction and air conditioning units will be positioned at the back of the premises and may, depending on their nature, require a separate planning application.

The proposed Change of Use from retail to restaurant is not considered to have a detrimental impact on the vitality or viability of this part of the town centre.

**OFFICER RECOMMENDATION:**
Planning Permission be granted conditionally.

1. Condition ST02a: Time Limit on Full.

2. The premises, the subject of this permission, shall not be open for business between the hours of 11.30pm and 5.30pm, with the exception of Friday and Saturday when the premises can open to 12 midnight and no customer or potential customer shall be
served, or otherwise make use of the premises, between these hours, unless agreed in writing by the Local Planning Authority.

3. Prior to the building being brought into use, details of the air-conditioning units, flues and ventilation / extraction units and the timing of their installation shall be submitted to and approved in writing by the Local Planning Authority. The units shall be installed in accordance with the approved details and so retained.

Reasons:

1. Reason ST02a.

2. In the interests of the amenity of nearby residents in accordance with Policies SF1 and S4 of the Adopted Derbyshire Dales Local Plan (2005).

3. In the interests of the amenity of nearby residents in accordance with Policies SF1 and S4 of the Adopted Derbyshire Dales Local Plan (2005).

Note to applicant:

Notwithstanding Condition 3 above, externally mounted ventilation and extraction units may require a separate grant of planning permission.

Article 21 of the Town and Country Planning (General Development Procedure Order) 1995 provides for written confirmation to be obtained from a Local Planning Authority that a Condition or limitation attached to a grant of Planning Permission has been complied with.

The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request or £28 where the related permission was for extending or altering a dwelling house or other development in the curtilage of a dwelling house. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

This Decision Notice relates to the following documents:
Drawings numbered 1 and 2, received by the Council on 18th February 2014.

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 took into consideration the Local Plan Policy and also its context within the surrounding area.
THE SITE AND SURROUNDINGS:
The site lies in an isolated location between Ashbourne and Mappleton. It comprises the former stable block to Callow Hall and a series of outbuildings arranged around a yard area at the rear which were converted and extended / altered to create a single dwelling in the late 80s / early 90s. The spaces between the series of outbuildings at both ends of the building were filled and a continuous traditional blue tiled roof was introduced when the building was converted to a dwelling. A lean to extension, with a primarily glazed central section wraps around the inner courtyard.

THE APPLICATION:
Planning permission is sought to erect a single storey extension which will project 5m from the north west facing elevation of the former stable building, which fronts Mappleton Road. The extension would be sited at the western end of the building and would be 2.9m wide. It will have a dual pitched roof, 2.5m high to eaves and 4m high to ridge. The walls of the extension will be faced in red brick and the roof in plain tiles. A circular window opening is proposed in the gable end of the extension, a door and window opening in the west facing elevation and a single window opening in the east facing elevation.

The extension will accommodate a small utility and pantry.

RELEVANT HISTORY:
09/00278/FUL Single storey extension and replacement pitched roof to existing flat / pitched roof to provide first floor store Granted
WED/0689/0541 Conversion of stable block to residential Granted

CONSULTATIONS:
Local Highway Authority:
No objections.

Parish Council:
No comments received.

REPRESENTATIONS:
None.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005):
SF4: Development in the Countryside
SF5: Design and Appearance of Development
H2: Extensions to Dwellings
H5: Conversion and Re-use of Buildings to Provide Residential Accommodation Outside Settlement Frameworks

Derbyshire Dales Local Plan Pre Submission Draft (June 2013):
Development Management Policy 2 – Development in the Countryside
Development Management Policy 9 – Design and Appearance of Development
Other:


ISSUES:
1. The main issue to assess in the consideration of this application is the impact of the proposed extension on the buildings character and appearance and its surroundings.

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 Local Plan deals specifically with extensions to dwellings and states that planning permission will be granted for extensions that would not result in a detrimental impact on the character and appearance of the dwelling and its surroundings. ‘The Conversion of Farm Buildings Design Guidance’ Supplementary Planning Document was adopted in 2005. This considers the conversion of farm buildings, including former stables to residential dwellings, and sets out the District Councils approach to dealing with alterations and extensions to such buildings. The guidance makes it clear in relation to extensions that they must be designed to respect and harmonise with the existing building, in terms of its size, scale and massing. With regard to fenestration detailing, it advises that the extent and type of windows and doors should be informed by the character of the principal building, as should the ratio of window / door openings to walling.

3. In considering any application to convert and re-use buildings for residential purposes outside of defined settlement framework boundaries the Local Planning Authority must be satisfied that the buildings historic and architectural interest would be preserved through conversion, a requirement of Policy H5 of the Adopted Derbyshire Dales Local Plan (2005). The original scheme of conversion significantly compromised the character and appearance of a substantial part of the building in terms of the extensions permitted. However, the main road facing elevation retains its stable like appearance. Notwithstanding the extensions, the Local Planning Authority recognised the importance of this particular buildings character and layout in the consideration of application WED/0689/0541 and removed the right to extend or make any external alteration to the building, without its prior written approval.

4. The proposed extension would project beyond the north west elevation of the building, which was the road facing facade of the former stable. As explained above, when permission was granted to convert the building in 1989 and for extensions and alterations in 2009 great care was taken to ensure that the character and appearance of the most important / visible aspects of the building were preserved. It is considered that there is continued merit in seeking to preserve the appearance of this north west elevation. In this context the narrow form and appearance of the extension is such that it would appear as an odd appendage to the former stable, harmful to the character and appearance of its north west elevation.
5. The harm to the character and appearance of this important elevation of the building would be disproportionate to the amount of floorspace that would be created / the need for a small utility and pantry and would conflict, it is considered, with Policies SF5 and H2 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the ‘The Conversion of Farm Buildings Design Guidance’ Supplementary Planning Document (Adopted November 2005). Whilst it is recognised that the overall character and appearance of the building has been compromised over time, on balance this harm to the main public façade warrants a recommendation of refusal.

OFFICER RECOMMENDATION:
That planning permission to be refused for the following reason:

1. The extension by reason of its siting, narrow form and design would appear as an incongruous addition to the north west elevation of this former stable, harmful to its character and appearance. The proposed development would therefore conflict with policies SF5 and H2 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the District Councils Supplementary Planning Document ‘The Conversion of Farm Buildings Design Guidance’ (2005).

Footnote:

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

This Decision Notice relates to the following documents:
1:1250 Scale Site Location Plan numbered V26-04;
1:500 Scale Block Plan numbered V26-05, and;
1:100 Scale Existing and Proposed Floor Layout and Elevations Plans received by the District Council on the 4th March 2014.
14/00129/FUL  ERECTION OF 10KW WIND TURBINE (15.0 METRES TO HUB AND 18.5 METRES TO BLADE TIP) AT MULINO LODGE, KNIVETON FOR MR C BARKS

Parish Council:  Atlow  Date of receipt:  26/02/2014
Application type:  Full  Case Officer:  Mr J Bradbury

THE SITE AND SURROUNDINGS:
The application site is in an isolated location within an agricultural field in open countryside high up on the ridgeline overlooking the valley of Kniveton Brook to the southwest and Henmore Brook to the southeast. The turbine would be located close to the farm access track back from the edge of the escarpment which falls steeply down to the southeast towards Atlow with the land immediately to the south falling more gently before the slope steepens downwards to the confluence of the two brooks. The land to the north rises gently to the high point of Madge Hill approximately 25-30m higher than the site. The land to the west is marginally higher than the site but to the west of this a line of vegetation follows the route of a green lane, which runs north / south along the ridge and provides screening. The land to the south and east of the site is open field and the access track to ‘Mulino Lodge’ runs immediately to the west and north. The main agricultural building at ‘Mulino Lodge’ lies approximately 100m to the northeast of the turbine and a group of trees surround this building. Access to the farm track to ‘Mulino Lodge’ is taken from a track leading from Agnes Meadow Lane to the southwest. The nearest dwellings to the site are isolated in a small cluster, approximately 400m to the southwest. ‘Woodhead Farm’ and barns in this cluster are grade II listed and further grade II listed buildings are located in the locality at ‘Hallfield Farm’ to the south and ‘Atlow Moat’ in the valley to the east.

THE APPLICATION:
Planning permission is sought for a Bergey Excel 10 single wind turbine. The turbine is 15m to hub height with three blades with a diameter of 7 metres giving an overall maximum height to blade tip of 18.5m. The turbine has a maximum power output of 10 kW. The tail fin of the turbine extends out by 3.5m. The turbine would be located approximately 8m to the east of the farm access track.

The applicant estimates that the turbine will generate around 22500 kWh per year of electricity to serve their farm business.

The application is accompanied by a Design and Access Statement, ecological and bat survey and information is included on the noise output. A total of nine letters of support from nearby residents have been submitted by the applicant.

RELEVANT HISTORY:
12/00365/FUL  Erection of two 5kW wind turbines (18.5m to the hub and 21m to the blade tip) - Refused – dismissed on appeal

11/00829/FUL  Erection of single monopole 50kW turbine (34.5 to blade tip) – Withdrawn

10/00842/FUL  Erection of 50kW (34.6m to blade tip) wind turbine - Refused – dismissed on appeal

10/00364/FUL  Erection of 34.5m wind turbine – Refused
CONSULTATIONS:
Local Highway Authority
No objections

Parish Council
No response received at time report drafted

Derbyshire Wildlife Trust
In response to earlier application in same location did not consider turbine had any adverse impact in relation to birds, bats or ecology. Welcome provision of new hedgerow.

Environmental Health
Have previously raised no concerns in relation to turbine in this location because of separation from nearest dwellings.

Ministry of Defence
No objection

REPRESENTATIONS:
One letter of objection raising the following points:
1. Highlight the previous dismissal on appeal of two turbines on the same site.
2. Consider that the turbine would remain prominent in views from south and east.
3. The turbine would be fully visible on the horizon when viewed from Corley Lane.
4. Planting undertaken is insufficient to mitigate the harmful visual impact of the turbine.
5. The scheme should be rejected as was the previous scheme on appeal.

Forty letters of support have also been submitted with a wide geographical spread making the following general points:
1. Support renewable energy
2. The turbine will help this rural business
3. Landscape impact limited as turbine is only the size of a tree
4. The turbine sits close to the farm buildings and is not prominent
5. There will be no noise nuisance to neighbours because of the separation from dwellings
6. Other turbines have been approved in the surrounding area
7. There will be no adverse impact on tourism
8. The existing farm set up is a credit to sustainable business establishment and the turbine will help to reinforce this
9. The turbine will help to replace an inefficient diesel generator

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
   NBE4: Protecting Features Or Areas Of Importance To Wild Flora And Fauna
   NBE5: Development Affecting Species Protected by Law Or Are Nationally Rare
   NBE8: Landscape Character
   NBE16: Development Affecting A Listed Building
   TR1: Access Requirements And The impact Of New Development
   CS5: Renewable Energy Installations
Pre Submission Draft Derbyshire Dales Local Plan
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 6 – Landscape Character
Development Management Policy 7 – Biodiversity and Geological Interests
Development Management Policy 8 – The Historic Environment
Strategic Policy 9 – Climate Change

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:
In assessing this application for an 18.5m metre turbine it is first necessary to analyse the policy context which applies. The policy statements in the National Planning Policy Framework are generally positive. Paragraph 98 stresses that applicants are not required to demonstrate the overall need for renewable or low carbon energy and recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Local Planning Authorities are advised to approve applications if the impacts are (or can be made) acceptable.

Paragraphs 214 and 215 of the National Planning Policy Framework consider the weight that should be attached to existing local plans and emerging local plan policies. Post March 2013 the weight to be given to adopted local plan policies varies depending on their degree of consistency with the framework. The greater degree of consistency the greater the weight that can be attributed.

Emerging plan policies can also be given weight in decision making with the weight given depending on the stage of plan preparation.

The other important material considerations in this case are the Councils Supplementary Guidance on landscape sensitivity to renewables, the recently published Planning Practice Guidance for Renewable and Low Carbon Energy and the recent decision of the Planning Inspectorate to refuse an appeal for two 21m turbines on the same site.

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

SF4, NBE8, NBE16, 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 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 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 Policy NBE16 is to protect designated heritage assets. Whilst the wording of this policy 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 policy retains significant weight in assessing this application.

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.

From this analysis of the Development Plan and other material considerations, the comments of consultees and the details of the application a number of key issues arise around which the considerations of the merits of this scheme are logically assessed. The key issues are as follows:

i. Visual / Landscape Impact
ii. Impact on the setting of nearby listed buildings
iii. The noise impact on nearby residents
iv. Effect on nature conservation

i). Visual / Landscape Impact

It is logical to reflect on the findings of the Planning Inspector who assessed the scheme for two 21m turbines in helping to reach a balanced judgement on this scheme for a single smaller turbine.

The Inspector notes in paragraph 7 of her decision that one of the turbines is close to the buildings whilst the other was to be located in a more exposed position, almost at the top of a spur of a hill. From her site visit which included the surrounding valleys and the submitted viewpoints she concluded that the turbines would be highly visible breaking the skyline from many of the viewpoints, including views from the surrounding roads and footpaths.

Whilst she noted their slim design she considered that the turbines would be especially prominent in views from the south and east.

With this degree of visibility she considered that they would read as alien and incongruous features in an otherwise rolling landscape. This adverse impact on landscape was not in her view counterbalanced by proposed planting or the energy benefits of the scheme.

The current scheme has deleted the more exposed turbine and reduced the height of the remaining turbine to 18.5m. Planting of a native hedgerow with trees to the east is indicated on the submitted drawing.

The Peak Sub-Region Climate Change Study recognises the landscape character type into which the turbine is to be introduced ‘Settled Farmlands’ as being highly sensitive to large and medium scale turbines and as such largely unsuitable to accommodate them. Whilst at 18.5m the proposed turbine falls into the medium category (15m to 65m) it is right at the bottom end of the medium category. The Climate Change Study acknowledges that
sensitively sited small turbines can be located within this landscape but this should take account of available screening, locate turbines near to buildings where feasible and utilise the absorbing capacity of topography.

The proposed turbine is located back from the ridge relatively close to farm buildings. Its height equates to that of a large tree and it will be seen in distant views from the south east against a backdrop of tree cover and higher ground.

Whilst there will still be some adverse impact to landscape character and appearance the scale of that impact is significantly reduced in relation to the scheme considered by the Planning Inspector.

The applicant is also proposing to plant a native hedge with trees to the east of the turbine. In time the re-introduction of this field boundary will help to soften the impact of the turbine and this positive impact on landscape character and appearance has to be weighed in the balance.

It needs also to be borne in mind that the applicant has planning permission for an agricultural workers dwelling to the east of the turbine just to the west of the brow of the hill.

When all of these factors are borne in mind the adverse impact of the turbine now proposed on the character and appearance of the landscape is considered to be medium to low.

Previous applications have been assessed for their impact on the setting of the National Park. Whilst it is still relevant to consider this issue the distance from the park boundary and the height of the turbine means that any visibility will be negligible and no harm will result.

Cumulative harm was also previously considered. Carsington Pastures as a major wind turbine installation is currently under construction. Whilst in some very limited views the application proposal may be seen in conjunction with this the cumulative harm resulting from such markedly different schemes at this separation distance is negligible.

ii). Impact on the Setting of Listed Buildings
Three farm groupings in the landscape surrounding the site are grade II listed. To assess any harm to the setting of these buildings you have to first assess their setting and then relate the scale and visibility of the turbines to this. The three farm groupings concerned are ‘Atlow Moat’, ‘Woodhead Farm’ and ‘Hallfield Farm’. All have an intimate nature and their setting is considered to be limited to the immediately surrounding farmland. In this context an 18.5m turbine set several hundred metres away will not have any significant impact on their setting.

iii). Noise Impact on Nearby Residents
The applicants have submitted noise data for the turbine and have with previous applications carried out background noise surveys. As the nearest dwelling is approximately 400m away the proposals will not result in any significant noise nuisance and no objection is raised on this issue subject to appropriate conditions.

iv). The Effect on Nature Conservation and Fauna
The applicants undertook an ecological survey for application code number 10/00364/FUL. This survey has not been revisited as part of the current application. However, Derbyshire Wildlife Trust have previously visited the site and they are content that as the turbine is
sited away from established vegetation, it is unlikely that bats will be affected. The flora on site has limited botanical interest such that no adverse impact will result. There is no nature conservation basis for opposing the application.

Summary
The proposal is in a degree of conflict with the Peak Sub Region Climate Change Study as the turbine is categorised just within the medium scale and has a relatively exposed location such that adverse impact of a low to medium magnitude to landscape character and appearance could result. However, this impact will be mitigated to some degree both by planting and the introduction of a new farmhouse to be located in the foreground when viewed from the east. Both of these changes will help to assimilate the proposal.

When these factors are taken together the harm caused to landscape character and appearance overall is not considered to constitute unacceptable adverse impact under the terms of Policy CS6. When the wider benefit of the renewable energy generation is factored into the balance the fine balance is in favour of this particular scheme. This analysis is based on the particular characteristic of this proposal and does not in any way undermine the applicability of the landscape sensitivity analysis in assessing other schemes when the balance of considerations may be different.

OFFICER RECOMMENDATION:
Planning permission be granted subject to conditions

1. ST02a Time Limit On Full

2. The proposed development shall be retained for a period of not more than 25 years from the date the electricity from the development is first supplied to the grid, this date to be notified in writing to the Local Planning Authority upon commissioning. By no later than the end of the 25 year period the turbines shall be decommissioned and they and all related above ground structures shall be removed from the site.

3. The permission hereby granted relates solely to installation of the Bergey Excel 10 Turbine.

4. No development shall commence until full details of the means and route of deliveries to the site has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

5. Prior to the commencement of development full details of the hedgerow and hedgerow trees to be planted to recreate a field boundary to the east of the turbines shall be submitted to and agreed in writing by the Local Planning Authority. The planting shall be carried out in the first available planting season after the commencement of development. Any trees or hedge plants which within a period of 5 years of planting are removed, die or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the Local Planning Authority.

6. The wind turbine noise levels shall not exceed 35dB(A)L90, 10 mins at wind speeds not exceeding 10m/s at the nearest occupied dwelling at the time of granting permission excluding the home of the owner/operator.

7. At the request of the Council following a complaint to the Council relating to noise emissions from the wind turbines, the owner/operator of the wind turbines shall measure at their expense the level of noise emission from the wind turbines (inclusive of background
levels of noise) expressed at L90, 10mins. A minimum of 20 periods of 10mins shall be monitored and this shall not be undertaken in wind speeds of less than 2m/s.

8. If a turbine hereby approved ceases to be operational for a continuous period of 12 months it shall be removed from the site and the land reinstated.

Reason:

1. ST02

2. As the turbine has a limited working life span and in order to reverse the harm to the landscape.

3. For the avoidance of doubt as the impact of this turbine on landscape character and appearance has been assessed and other turbine models may have different impacts.

4. In the interests of highway safety to accord with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005).

5. To ensure the re-establishment of a hedgerow, to enhance landscape character and appearance.

6. To ensure no noise nuisance results to other residential properties.

7. To ensure no noise nuisance results to other residential properties.

8. To ensure that the landscape is protected and the turbine removed if no longer producing electricity.

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. This permission relates to the following documents:
   - Site location plan received 26th February 2014
   - Turbine design drawing received 26th February 2014
   - Block plan – drawing received 26th February 2014
   - Landscape Assessment and Viewpoint Photomontages received 26th February 2014
   - Ecological and Bat Survey received 26th February 2014
   - Design, Access and Planning statement received 26th February 2014
   - Bergey Excel 10 UK MCS Certification summary received 26th February 2014
Horsley House, Kniveton

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Derbyshire Dales District Council, Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN. Telephone: (01629) 781100. Website: www.derbyshiredales.gov.uk
THE SITE AND SURROUNDINGS:
The application property is an isolated, ‘L’ shape, barn conversion, situated in the rural area between Kniveton and Bradbourne. It is accessed via a long, single track.

THE APPLICATION:
The proposal is for the erection of a porch. It will extend to the front by 2m and will be 3m wide. It will be 3.7m high with a pitched roof.

RELEVANT HISTORY:
- WED/0990/0779 Approval of reserved matters – Conversion of barn to dwelling and garage – Outline WED/0390/0292. Granted
- WED/0390/0292 Conversion of farm building to dwelling (Outline). Granted

CONSULTATIONS:
Local Highway Authority: No objection.
Parish Council: Not received.

REPRESENTATIONS:
None received.

POLICIES:
- Adopted Derbyshire Dales Local Plan (2005)
- SF4 Development in the Countryside
- SF5 Design And Appearance Of Development
- H2 Extensions to Dwellings
- H5 Conversion and Re-Use Of Buildings To Provide Residential Accommodation Outside Settlement Frameworks

- Derbyshire Dales Local Plan Pre Submission Draft June 2013
- Development Management Policy 2 – Development in the Countryside
- Development Management Policy 9 – Design and Appearance Of Development

National Planning Policy Framework (NPPF)

Other:
The Conversion of Farm Buildings Design Guidance, Supplementary Planning Document, Adopted November 2005
ISSUES:
The main issues to assess are the impact that the proposed porch will have on the character and appearance of this converted farm building and also the impact that it will have on the surrounding area.

When planning permission was granted for the conversion, it was achieved with only relatively minor alterations to the building and its character and appearance was therefore largely preserved. To maintain control, Permitted Development rights to extend the property were removed.

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 Local Plan deals specifically with extensions to dwellings and states that planning permission will be granted for extensions that would not result in a detrimental impact on the character and appearance of the dwelling and its surroundings.

‘The Conversion of Farm Buildings Design Guidance’ Supplementary Planning Document was adopted in 2005. This considers the conversion of farm buildings to residential dwellings and sets out the District Councils approach to dealing with alterations and extensions to such buildings. The guidance makes it clear in relation to extensions that they must be designed to respect and harmonise with the existing building in terms of its size, scale and massing. With regard to fenestration detailing, it advises that the extent and type of windows and doors should be informed by the character of the principal building, as should the ratio of window / door openings to walling.

Whilst the proposed porch will not be visible from public view, nevertheless, the aim of the Council Policy is to preserve the character and appearance of the building in its totality. The Council’s Supplementary Planning Document (SPD) on Barn Conversions seeks to protect the former farm buildings from modern additions which would not have historically appeared on them. This is because modern additions such as porches and conservatories can, cumulatively, harm and dilute the character and appearance of the former agricultural building. This is backed up by Local Plan Policy SF5. This states that works should be undertaken so that they reinforce the sense of place and are well related to the surrounding properties and land uses. Local Plan Policy H2 states that extensions to dwellings should not result in a detrimental impact on the character or appearance of the dwelling and is surrounding.

Whilst it is recognised that this is a modest addition to the building which underwent some change to its character and appearance during conversion, on balance, it is considered to be an incongruous addition which serves to undermine the building’s existing character and appearance.

Officer Recommendation:
Planning Permission be refused for the following reason:
The addition of a porch will have an adverse impact on the character and appearance of this

Note to applicant:

This Decision Notice relates to the following documents:
Drawing numbered 1092 HH 001, received by the Council on 14th February 2014.

Prior to the submission of the application, the Local Planning Authority attempted to engage in a positive and proactive dialogue with the applicant to overcome initial concerns relating to modifications to a converted farm building, being contrary to the Council’s Supplementary Planning Document (SPD) on barn conversions. Unfortunately however, it became clear that there was no way of overcoming the fundamental issues and there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis, the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.
14/00009/FUL

Overtown Farms, Overtown, Hognaston

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

Organisation | Derbyshire Dales District Council
Department | Not Set
Comments | Not Set
Date | 01 May 2014
Licence No. | 100019785
THE SITE AND SURROUNDINGS:
The application relates to 2no former agricultural buildings at Overtown Farm, Hognaston. Currently, there is an existing two-storey farmhouse with an attached two-storey brick and plain tile barn, which has an attached single storey store/garage at its open side end. Extant planning permission exists for this building to be converted into holiday let accommodation. The second building is a freestanding single storey brick and tile barn which, together with another outbuilding encloses a yard area at the eastern end of the group of buildings. Internally, this building has a king post roof structure and animal stalls divided by a stone wall.

Access is via a single width lane off the road leading to Carsington Water visitor centre. The lane descends in a south-easterly direction past several dwellings/farm premises terminating at Overtown Farm. On entering the premises a recently realigned track serves the farmhouse and continues down to the yard area where the application buildings are located.

Open land surrounds the site, except to the east where the access track and other properties are located.

THE APPLICATION:
Full planning permission is sought to convert the former barn buildings into two dwellings. The attached barn is to be converted into a three-bedroom dwelling with the same layout, extension and elevations as the previously approved holiday accommodation permission. All original openings on the front elevation are to be retained and used for windows/doors, two of the latter having full height glazed openings. One of two existing rooflights will be retained and a new rooflight introduced further along the building. On the rear elevation a lean-to single storey extension is proposed with the existing roof slope continuing down over the structure which will accommodate a stairway, with mainly glazing in its northerly side elevation, a toilet and utility room will also be provided. The existing ground floor will provide a living room, entrance hall, kitchen and dining room with the latter in the former garage / store which will have a full height glazing in four frames (including a doorway). At first floor level two of the bedrooms will be en-suite and a bathroom will be provided, all rooms being accessed via a corridor on the rear side of the building. New materials are to match existing for the extension and alterations.

The single storey barn will also have its existing openings reused, with two of its three frontage doors being converted into full height windows. The middle door will be reused and lead to a small hallways, which with the stalls having been removed, will in turn lead to an open plan lounge, dining and kitchen area (although the latter is only indicated by worktops). Two bedrooms and a bathroom will be provided, the only other internal addition will be a new stairway being installed leading to one of the bedrooms located in the roofspace. A high level window in the northern side elevation will be retained. Two existing rooflights on the front roofslope will remain, two new rooflights will replace a single rooflight on the rear elevation.

The application is accompanied by a Design and Access Statement, a Planning Statement, a Structural Appraisal, an Extended Phase-1 Habitat survey and Bat survey,
and a further Bat Activity Surveys report with proposed mitigation and compensation measures. (The structural report and ecological surveys accompanied the previous application and are dated March 2011 and June 2011, respectively).

RELEVANT HISTORY:
12/00429/FUL Conversion and extension of barn to create holiday let cottage - Granted
11/00632/FUL Conversion and extension of barn to dwelling – Refused
11/00052/FUL Conversion and extension of barn to dwelling – Withdrawn

CONSULTATION:
Local Highway Authority
Refer to previous correspondence in respect to development of this site. The access is substandard in terms of width and forward visibility and the Highway Authority previously raised objections to the conversion to a single dwelling but chose not to object to a proposal for a holiday let. This was on the basis that a reduced number of traffic movements would likely to be generated.

Following permission having been granted for a holiday let, discussions have been held with a consultant regarding further development of the site. On the basis that all farming activity was to cease, the conclusion reached was that there would not be any increase in traffic movements and that highway objection would be unlikely to be raised. A legally binding document to maintain the cessation of farming activities would be beneficial or some other means of securing cessation of farming activities. Apart from this, the level of parking is acceptable and there is space within the site for turning, which should be suitable for all vehicles including service/delivery vehicles. (The location of adequate bin storage should have been demonstrated on the drawings).

On the basis that all farming activity at Overtown Farm has ceased, and should planning permission be recommended, planning conditions are requested covering the following matters: -

i. Cessation of all farming activity to a set deadline
ii. Construction phase layout
iii. Parking and turning space to be provided and maintained free of obstruction, and
iv. Bin storage and collection areas, provided prior to occupation

Parish Council
The Parish Council object to the proposed development for the following reasons: -

i. At their meeting the Parish Council received at total of five objections (written and verbal) from Uppertown residents, who are opposed to the development on land use and access grounds.

ii. Highway safety is an issue, given the increased size of the proposed development. This is notwithstanding the arguments set out within the application relating to the advice on new dwellings within the National Planning Policy Framework, in respect to redundant buildings and ‘brown field’ development.
iii. A previous application to convert the two-storey barn was refused, with the primary reason being the limited visibility on the narrow access road, the lack of vehicle passing places and the inability to remedy these issues given the nature of the road and landscape. It was considered that even the addition of this single dwelling would be detrimental to highway safety contrary to the aims of Policies SF4, SF5 and TR1 of the Adopted Derbyshire Dales Local Plan (2005).

iv. Subsequent to this the barn has been approved for conversion to a holiday let cottage, as this was considered to generate less vehicular traffic. This proposal would increase the number of properties from 1 to 2 and change the occupancy from a holiday let to a dwelling. As there has been no change to the nature of the access road, the Parish Council fails to see how the factors which contributed to previous decisions can be of any less importance now, than they previously were.

v. The supporting planning statement refers to there being several areas along the road where cars could pass one another. In fact, one of these alleged passing places is a working farmyard, others, (some 150m further along a single track road with limited visibility) are property gateways, in other words private properties. The inadequacy of the lane becomes clear each time a service vehicle endeavours to reach the end of the lane. Increasing the property at the end of the lane by 300% multiples by an equivalent factor the use of the lane by service vehicles.

vi. The supporting statement places emphasis on the hypothetical traffic generated by a working farm. This overlooks the significant fact that Overtown Farm has not been a working farm for 15-20 years, prior to this application being made. The farm holding was reduced to 12 acres when Carsington Water reservoir was created and further reduced to its present 3 acres size. Little or no traffic movement had occurred for some time.

vii. The Local Highway Authorities consultation response letter to the Council fails to recognise that there has been no farming activity on the application site for 15-20 years, also there is no connection between ‘Overtown Farms’ and ‘Uppertown Farm’ which is an active farm. If a perceived connection exists, this may be the source of the misunderstanding on traffic, nullifying the traffic density figures that are used to justify the application. It should be noted that the application premises are ‘Overtown Farm’ and not ‘Overtown Farms’ implying a larger size than exists.

viii. The Parish Council requests that very careful consideration be given to the potential effect of increased traffic flow on the working farm which lies across the access road. The disturbance this can cause to a working livestock farm is considerable, and multiplied to an unacceptable extent if the yard area of the farm is considered as a traffic passing place. This has been highlighted by the traffic flow associated with building work at the site. The existing narrow access road provides no separate carriageway for pedestrians, yet this is a much walked route between Carsington Water and Hognaston, linking public footpath FP9 with FP3, and features as such on a number of published walking-routes.
ix. The supporting statement refers to the site being ‘well-served for non-car based’ travel. The existing footpath network provides access to Carsington Water Visitor Centre, the Knockerdown Inn and Hognaston Village; the cyclepath meanders around Carsington Water. It might be considered that these hardly provide a viable alternative to car-travel in terms of the destinations that residents of the proposed dwelling might wish to reach. Whilst there is an intermittent bus service, the nearest bus stop is at the visitor centre, necessitating an 800m walk along the narrow access road.

x. The Parish Council are concerned that should this application be granted, reversing the position in the determination of application 11/00632/FUL, which was refused for a single dwelling being created, a precedent for further development of this site would be established.

Derbyshire Wildlife Trust (DWT)
Refer to previous consultation responses for conversion of the two storey barn, dated May 2011, September 2011 and August 2012. The same ecology reports are provided as part of this submission. The ecology reports identified bat droppings, three different occasions where a single brown long-eared bat emerged and another where a single common pipistrelle was recorded emerging from the barn in May 2012. Active swallow nests were also recorded in May 2011 in several buildings at the site.

In our response dated August 2012, the Trust provided principles for a mitigation strategy and provided recommended planning conditions. Having initially reviewed the latest proposals, none of these show the proposed bat loft or bat mitigation/compensation measures and a more detailed mitigation strategy was not provided. We would advise the Council that prior to determination further information should be provided by the applicant as to how bats and nesting birds will be retained as part of the proposed development, and a detailed mitigation strategy should be provided. (On learning of DWT’s comments the applicant’s agent submitted details of mitigation measures which have been forwarded to DWT for further comment which will be reported at the Committee meeting that considers the proposed development).

However, it should be noted that if development does not proceed this year, and if a license is not secured from Natural England before the end of the season, then it is likely that further bat survey work will be required because of the length of time that will have elapsed since the surveys were undertaken in 2011/2012.

Natural England
No objection with regard to impact on statutory nature conservation sites. The application has not been assessed, and it’s supporting documents, for impacts upon protected species, and Natural England’s standing advice should be considered to decide if there is a reasonable likelihood of protected species being present. The advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a license may be granted. (With regard to the previous application Natural England advised that planning permission may be granted subject to appropriate conditions including a detailed mitigation and monitoring strategy for bats).
Natural England advise that opportunities for both biodiversity and landscape enhancements should be taken.

REPRESENTATIONS:
One representation in support of the proposed development and six representations objecting to the proposals (one in duplicate) have been received, which may be summarised as follows:

i. I strongly support the conversion of these farm outbuildings to residential, including restoration using matching stone and slate to maintain/improve their appearance.

ii. In developing the farm house and the plot next door, the applicant has made the single track down through the farm yard very busy and dangerous and is now wanting another dwelling to be passed.

iii. This is having a severe effect on the running of my farm, which is becoming unviable because I feel that it is too dangerous to be operating the types of every day farm machinery through the yard, as I have to cross the track daily to get to sheds on the other side, at different times of the day.

iv. The crossing point is a blind spot where I cannot see people coming up the lane nor can they see me or my tractor pulling out. As I have previously stated if the traffic up and down the lane is increased, through further development, there will be an accident, which I hope will not be a fatal one. Statistically, farming is one of the most dangerous industries.

v. The application premises previously only had one occupant, of pension age, who rarely used the lane, other than on foot. The applicant informed me that he would make the property one large dwelling, which we welcomed as the house needed a lot of renovation and this would tidy up the area. It now seems that he is trying to get as many houses as he can.

vi. The applicant has not lived here as I have for all my life, as 3 generations before me have. This proposal is pushing my family out of home, and undoubtedly will be the end to yet another farm, as I cannot stand the fright of this anymore, especially as I have a young family who need stability, and not the worry of what will be coming next.

vii. The applicant’s second application to provide a second dwelling at the premises was refused on highway grounds being a single track with one passing place in my farmyard, which is not suitable as it is where movement of farm machinery occurs. This then was changed to a holiday let proposal which was agreed to on the basis that less traffic would be generated. However, we already have one holiday cottage down the lane which is occupied most weekends and can have up to eight cars at a time. The dynamics of the lane have not changed so I cannot see why the Highway Authority have changed their mind.

viii. There is also risk to farm animals as they have to be moved daily across and also down the lane to my fields. The lane has a blind spot halfway down it and the number of residential dwelling has increased from three to seven in recent years, more than doubling the traffic through the farmyard. Farm equipment/machinery has increased in size to meet the needs of the farm.
ix. My discussions with the Council about ways to make the road safer have not resulted in any improvements, or ideas to address the issues. Walkers using the public footpath along the lane are also at risk, as the lane simply cannot take more traffic.

x. It is sad to see the original character of the farmyard and its approach being lost as it is already being carved up to make room for a further five car parking spaces, in anticipation of the application being granted.

xi. The applicant advances arguments in favour of residential use of redundant farm buildings. However, agricultural use evaporated when the associated farm land was sold off by the applicant to a local farmer, shortly after he acquired the property. The buildings are forcibly redundant at the hands of a developer.

xii. The application statement refers to a study carried out by traffic consultants, who set out a case that a working farm generates a greater amount of vehicle movements than the three dwellings that would be on the site. The Highway Authority appear to have moved from their previous stance (in 2012) that even one more residential property would result in a material increase in traffic. This is both disappointing and frustrating as the lane has not changed nor was Overtown Farm a large working farm for countless years prior to the applicant acquiring it.

xiii. The farm was so small (approximately 13 acres), having lost land to the construction of Carsington Water, it generated little and then no traffic movements, except for the odd taxi. In the meantime all other buildings along the lane capable of conversion were turned into dwellings or holiday lets, thus vastly increasing the traffic flow along the narrow track lane.

xiv. The lane cannot support a normal size dustbin lorry and a tanker delivering oil has to reverse down it, which is extremely dangerous to pedestrians. A fire engine would struggle. Additional traffic will add pressure to an already fragile and potentially dangerous situation.

xv. The small barn was being offered up, in a recent marketing, as a property suitable for a studio. A use ancillary to one of the two other properties would be more in keeping than another separate house with all the amenities, parking and vehicles it would require and generate.

xvi. The site is within the countryside and the applicant has sought to demonstrate that the test as to suitability for an employment/tourism use no longer applies, in view of recent policy changes. However, at 4.3.7 of the supporting planning statement, it only refers to employment use not being appropriate and makes no mention of tourism use.

xvii. The arguments made in favour of the sustainability of this site are tenuous. The three bedroom farmhouse was very recently advertised for sale at £499,000. It is risible to think that a buyer would forego the use of a car and walk at least 800m to a bus stop to use the intermittent bus service at Carsington Water. From personal experience it is not possible to walk to or use public transport to access any of the local primary schools.
xviii. The ecological reports were prepared for an application some 20 months ago. Presumably, Natural England will advise as to whether the passage of time is sufficient to warrant further investigation, with regard to bats.

xix. Consideration should be given, if permission is granted, to removing permitted development rights in order to limit the character and appearance of the site being further eroded.

xx. This application has not been improved or altered since the previous application except that two dwellings are applied for instead of one holiday let. This means that the reasons for refusal are now doubly relevant. The applicant, having had a dwelling refused sought, and was granted planning permission for a holiday let. This plan has not been carried forward. The proposed also includes the conversion of the existing single storey garage. The Councils Design Guidance advises where possible that existing buildings should be used for the garaging of vehicles rather than made part of a residential conversion. It is also proposed that it be fully fronted in glass, which is not in keeping with any of the surrounding buildings, area or other properties.

xxi. In summary, nothing has altered since the initial application was made to convert the same building into a dwelling and therefore this application should be refused on the same grounds.

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
   H5: Conversion And Re-Use Of Buildings To Provide Residential Accommodation Outside Settlement Frameworks
   H12: Alternative Provision For Affordable Housing Outside Settlement Frameworks
   NBE5: Development Affecting Species Protected by Law Or Are Nationally Rare
   NBE12: Foul Sewage
   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 4 – Residential Conversions in the Countryside
   Development Management Policy 7 – Biodiversity and Geological Interests
   Development Management Policy 9 – Design and Appearance Of Development
   Development Management Policy 22 – Access and Parking


4. Other

ISSUES:

1. The main issues to consider in respect to this particular application are:
   i. Is the principle of conversion of the agricultural buildings to 2 no dwellings in accordance with planning policy relating to such development
ii. Are the proposed works to convert the buildings sympathetic to their existing character and appearance.

iii. Would there be any unacceptable impact on the character and appearance of the surrounding countryside.

iv. Would there be any direct or indirect impact on protected species that mitigation measures could not resolve.

v. Highway access considerations.

vi. Any other material planning considerations.

2. It may be seen in the ‘Relevant History’ section of this report that there have been previous applications for the attached two-storey barn to be converted to residential accommodation. Application 11/0632/FUL was refused for three reasons that related to highway safety; that it was contrary to the requirements of Local Plan Policy H5 insofar as the case for conversion to employment or tourism use had not adequately been discounted, and there was insufficient survey information in respect to protected species. Subsequently, full planning permission (application 12/00429/FUL) was sought and granted for the two-storey barn to be converted into a holiday let cottage; the previous reasons for refusal had, it was considered, been overcome or mitigated to an acceptable degree.

3. With regard to these barns being converted into dwellings, the relevant policies of the development plan need to be considered. Given that the site lies outside of any Settlement Framework Boundary, as defined in the Adopted Derbyshire Dales Local Plan, the proposals fall to be considered as development in the countryside. Policy H4 of the Adopted Local Plan deals with Housing Development Outside Settlement Framework Boundaries and specifies that planning permission will be granted for housing that:

a. is essential for the operation of agriculture, forestry or other enterprise that needs to be in that location; or

b. consists of affordable housing for an identified local need.

With the proposal involving existing buildings to be converted into dwellings that could be sold on the ‘open market’ Policy H12 of the Local Plan becomes relevant. In short this states that in determining applications for dwellings outside 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 Local Plan area.

Notwithstanding the above, for a building to be converted to a dwelling (outside of a Settlement Framework) the requirements of Policy H5 have to be satisfied. Proposals may be supported if:

(i) the building is of permanent and substantial construction; and
(ii) the form, bulk and general design of the building makes a positive contribution to the character and appearance of the surroundings; and
(iii) the building can be converted without extensive alteration, rebuilding or extension; and
(iv) the building does not have a detrimental impact on the character and appearance of the building and its surrounding; and
(v) the building is not suited for conversion to an employment or tourism use.

The Derbyshire Dales Local Plan Pre Submission Draft (June 2013) will, it’s anticipated at the time of Committee’s consideration of this application, have been sent to the Secretary
of State, in the build up to the Local Plan Inquiry. As such, the Policies within the emerging Local Plan may be afforded more weight in the consideration of development proposals. Policy DMP2 deals with development in the countryside and advises that amongst the range of development that may be granted is development that represents the acceptable re-use, adaptation, or extension of an existing rural building of substantial and permanent construction. As with the requirements of Adopted Local Plan Policy SF4 the following criteria apply: -

- The proposals are well designed, appropriate in nature and scale to a rural area and;

- Preserves or enhances the character and appearance of the countryside and

- Minimises any adverse impact on the environment

Policy DMP4 is particularly relevant as it deals with ‘Residential Conversions in the Countryside’. The criteria of the Policy is similar to that of Adopted Local Plan H5 except that the need to consider other uses first as at H5 (v) is no longer included. The reason for this is that at Paragraph 55 of the National Planning Policy Framework, which deals with housing development in rural areas, there is no hierarchy of use where redundant buildings are proposed for conversion to housing. However, as with Local Plan Policy H12 a financial contribution is required towards affordable housing elsewhere in the plan area and the applicant has confirmed his agreement to make a contribution.

Accordingly, based on the above, it is considered that the principle of the proposed conversion of these two former agricultural buildings to 2no dwellings is acceptable. It is also the case, given that the two-storey barns alterations have previously been approved and the alterations to the smaller, freestanding barn are considered to be appropriate, that the proposals are in accordance with the Councils Supplementary Planning Document – The Conversion of Farm Buildings Design Guidance.

4. With regard to the impact upon the surrounding countryside the proposed conversion are not considered to adversely impact upon landscape character and as such the aims of Adopted Local Plan Policy NBE8 or emerging Policy DMP6. With regard to protected species it is considered that with the further information having been received in respect to mitigation and the acknowledgement of the need for a European Protected Species License from Natural England, with regard to bats, subject to appropriate conditions being imposed the aims of Local Plan Policy NBE5 and emerging Local Plan Policy DMP7 will be satisfied.

5. Turning now to the matter of highway considerations, the following points are considered pertinent. The comments from the local community and Parish Council are noted and it may seem highly inconsistent the Local Highway Authority were opposed to one additional dwelling at the application premises several years ago but are not now opposed to 2no. dwellings being developed. Their stated reasoning is that provided all farming activities at the premises are terminated, there would not be any significant increase in traffic movements that could sustain highway objection. From the representations received from the local community, it is clear that farming activities ceased at the application premises some years ago. With only some three acres of associated land, it is most unlikely that a viable farming enterprise could be reintroduced. The supporting statement of the applicant refers to the pre-submission discussions of his highway consultants with the Highway Authority. The consultants contend that the access road has several locations sufficient for two cars to pass one another and the narrow parts
of the highway will prevent vehicles travelling too fast. (It is noted that larger vehicles are not referred to). As reference to ‘the current farming use’ appears to be now no longer relevant, consideration of the highway impact remains an important issue. Based on this, at the time of preparing this report the Highway Authority has been asked to review their response in light of this clarification and their comments will be reported at the Committee meeting. Notwithstanding this, it is the case that the previous refusal of the larger barn being converted to a dwelling on highway grounds was prior to the National Planning Policy Framework being published and, as stated, becoming a material planning consideration. Based on the advice at Part 4 ‘Promoting Sustainable Transport’ the scale of the proposed development is unlikely to be regarded as a significant traffic generator. Indeed, given that traffic associated with the approved holiday let has already been considered and accepted, this off-sets to some degree the traffic associated with the barns conversion to a dwelling. The existing farm further up the lane operates on both sides and may be affected to some degree by other users of the lane. However, re-use of the redundant buildings on the application site has to be weighed in the balance and unless there is a sustained highway objection from the Local Highway Authority, refusal on highway ground may not be appropriate.

The suggested conditions of the Highway Authority are not all considered to be relevant/ necessary, but those that are may be imposed should planning permission be granted.

6. In conclusion, whilst resident frustration with the changed stance of the Highway Authority is understandable this appears to be based mainly on their previous lack of knowledge of actual farming diversity. In the absence of current objection and a highway reason to clearly indicate that the proposed development would result in significant and unacceptable highway safety concerns, a recommendation of approval, subject to the applicant entering into a legal agreement to secure the payment of the affordable housing contribution, is considered appropriate. (As previously stated, any further comments from Derbyshire Wildlife Trust will be reported at the Committee meeting).

OFFICER RECOMMENDATION:
That planning permission be granted subject to appropriate conditions and the applicant entering into a planning obligation agreement under Section 106 of the Town and Country Planning Act 1990 to secure payment of the affordable housing contribution.

1. ST02a: Time Limit On Full

2. Prior to commencement of development, a scheme of measures to secure the safety and stability of the barn building whilst conversion works are ongoing shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented and so retained during the course of development and be thereafter retained until such time as the holiday let accommodation is ready to be occupied.

3. This permission relates only to the conversion of the existing barn and does not authorise any demolition or rebuilding of any structures beyond the scope of this consent, other than where specified within the submitted details.

4. The premises, the subject of the application, shall not be occupied until space has been provided within the application site for the parking and manoeuvring of visitors/ service and delivery vehicles laid out, surfaced and maintained throughout the life of the development fee from any impediment to its designated use.

5. DM25: Window / Door Frames – …50mm (Omit including garage doors)
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no external alterations or additions shall be made to the dwellings hereby approved without the prior written approval of the Local Planning Authority upon an application submitted to it.

7. The external facing materials to be used for all alterations, shall match in all respects those used in the construction of the existing buildings, which are the subject of this application, unless the prior written approval of the Local Planning Authority is granted to any variation.

8. DM23: Design Details (External Fixtures)

9. DM24: Design Details (Eaves and Verges)

10. All joinery shall be given a British Standard colour paint finish in a colour to be agreed in writing by the Local Planning Authority and carried out as such within 28 days of being installed.

11. Prior to development commencing a copy of the requisite European Protected Species License shall be submitted to the Local Planning Authority for written approval of the mitigation measures contained therein. The measures shall be in accordance with those set out in the submitted letter dated 13th June 2012 by EMEC Ecology and on plans received by email on 21st February 2014. Details of the timing of works shall be provided, which should avoid the bird breeding season.

12. The mitigation measures will be monitored for a minimum of two years post-completion in Years 1 and 3. The reports shall be submitted to the Local Planning Authority in writing immediately after each survey. Copies shall also be provided to Derbyshire Wildlife Trust, Derbyshire Bat Conservation Group and Natural England.

13. No works shall commence on site until a detailed bird mitigation and enhancement strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy should provide details of the number and location of swallow nest boxes and suitable provision for other nesting birds on site. Such approved measures shall be implemented in full and maintained thereafter.

14. Before any operations are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of site operative’s and visitor’s vehicles together with the loading/unloading and manoeuvring of goods vehicles, designed, laid out and constructed all to be agreed in writing by the Local Planning Authority in advance of construction work commencing and maintained free from impediment throughout the duration of construction works.

15. Prior to the occupation of the new dwellings adequate bin storage and a bin dwell area for use of refuse collection days shall be provided clear of the public highway, within the site curtilage clear of all access and parking and turning provision and retained thereafter free from impediment to designated use.

Reason:

1. ST02:
2. To safeguard the buildings and ensure that they are retained in accordance with the aims of Policies SF4, SF5 and H5 of the Adopted Derbyshire Dales Local Plan (2005) and the advice within ‘The Conversion of Farm Buildings’ Design Guidance, Derbyshire Dales District Council Supplementary Planning Document (Adopted November 2005).

3. To safeguard the buildings and ensure that they are retained in accordance with the aims of Policies SF4, SF5 and H5 of the Adopted Derbyshire Dales Local Plan (2005) and the advice within ‘The Conversion of Farm Buildings’ Design Guidance, Derbyshire Dales District Council Supplementary Planning Document (Adopted November 2005).

4. To ensure adequate parking and manoeuvring space is available to serve the new dwellings in accordance with the aims of Policies SF4, SF5 and TR1 of the Adopted Derbyshire Dales Local Plan (2005).


6. To preserve the character, appearance and setting of the barn conversion in accordance with the aims of Policies SF4, SF5 and H5 of the Adopted Derbyshire Dales Local Plan (2005).

7-8 DM23: …change buildings to building …the aims of Policies SF4, SF5 and H5 of the Adopted Derbyshire Dales Local Plan (2005).


11-13 To ensure that the development has due regard to the presence of protected species to maintain/ enhance the status of the species in accordance with the aims of Policy NBE5 of the Adopted Derbyshire Dales Local Plan (2005).

14. To ensure adequate parking and manoeuvring space is available to serve the new dwellings in accordance with the aims of Policies SF4, SF5 and TR1 of the Adopted Derbyshire Dales Local Plan (2005).

15. For the avoidance of doubt and to ensure satisfactory bin storage facilities in accordance with the aims of Policy SF4 of the Adopted Derbyshire Dales Local Plan (2005).

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 protected species.

2. This Decision Notice relates to the following documents:
3. In relation to the mitigation strategy for bats it is recommended that the following principles are adhered to:

i. Wherever possible the existing bat roost locations should be maintained or reinstated in their current positions. This is definitely possible to achieve with the common pipistrelle bat roost.

ii. The brown long-eared bat roost mitigation needs to ensure that adequate space within a new bat loft is created, with the minimum dimensions of 2m in height (floor to ridge board) and 4m in length. The design should incorporate the wall where the bat has been recorded roosting. Careful choice of materials needs to be made and any locations in which bats are roosting need to use a traditional bitumen based roofing felt rather than modern breathable membrane because bats can get trapped on the newer materials.

iii. Consideration needs to be given to the current light levels within the existing brown long-eared roost so that these can be replicated as much as possible within the bat loft. It is noted that the brown long-eared bat was recorded exiting the building from under tiles and also out of a partially open hayloft door. It may therefore be necessary to install a similar style door to allow some light in to enable brown long-eared bats to light sample prior to leaving the roost and to exit through a larger opening. It may therefore be necessary to provide a dark and a lighter area within the bat loft.

iv. It is recommended that an access hatch is installed externally to allow monitoring of the roosts but that no loft hatch should be installed internally to prevent the loft from being used for storage and to prevent disturbance to the bat roost. The external hatch should have a key code to prevent access for storage and to prevent unnecessary disturbance.

v. As detailed within the survey report it is also recommended that other bat roosting features are incorporated into the other buildings on site, for example the provision of bat tubes within the walls, leaving out small areas of mortar form the verges to allow bats to roost on the wall plate and the provision of bat boxes.

4. NFA20 .... 2, 11, 13 & 14

5. NFA21
## APPLICATIONS TO CARRY OUT WORKS TO PRESERVED TREES:

<table>
<thead>
<tr>
<th>TPO NO.</th>
<th>ADDRESS/APPLICATION</th>
<th>DECISION/COMMENT</th>
</tr>
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</table>
| 107     | 46 PREMIER AVENUE, ASHBOURNE  
CROWN LIFTING OF ASH  
Reasons: Excessive shading  
To grow organic vegetables  
Risk of dead branches falling | PENDING DECISION |
| 107     | 3 FORSHAW CLOSE/6 HAMBLETON CLOSE, ASHBOURNE  
PRUNING OF OAK  
Reasons: To crown lift and balance the crown | PENDING DECISION |
| 36      | LAND TO THE EAST OF KILN CROFT HOUSE, WEST END, BRASSINGTON  
POLLARDING OF LIME  
Reasons: Extensive decay in upper crown | CONDITIONAL CONSENT |
| 90      | TREES, BELLE VUE ROAD, ASHBOURNE  
PRUNING OF TREES  
Reasons: To ensure the long term amenity of the trees  
whilst ensuring an acceptable risk to the property | PENDING DECISION |
| 107     | 2a WYASTON ROAD, ASHBOURNE  
PRUNING OF ASH  
Reasons: To increase light to garden | PENDING DECISION |

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

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<thead>
<tr>
<th>CONS. AREA</th>
<th>ADDRESS/PROPOSED WORKS</th>
<th>DECISION/COMMENT</th>
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</table>
| SHIRLEY    | THE OLD RECTORY BARN,  
DERBY ROAD, SHIRLEY  
FELLING OF WELLINGTONIA  
Reasons: Outgrown location  
Leaning  
Damaged brick retaining wall | NO OBJECTIONS |
| ASHBOURNE  | DOVE HOUSE RESIDENTIAL HÔME,  
1 DOVE HOUSE GREEN, ASHBOURNE | NO OBJECTIONS |
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<th>ADDRESS/PROPOSED WORKS</th>
<th>DECISION/COMMENT</th>
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<tr>
<td></td>
<td>FELLING OF TREES</td>
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<td>Reasons: Not given</td>
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<td>SHIRLEY</td>
<td>RUSHMOOR HOUSE, CHURCH</td>
<td>NO OBJECTIONS</td>
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<td>LANE, SHIRLEY</td>
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<td>PRUNING OF TREES</td>
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<td></td>
<td>Reasons: Not given</td>
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<tr>
<td>SUDBURY</td>
<td>SUDBURY HALL CAR PARK,</td>
<td>NO OBJECTIONS</td>
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<tr>
<td></td>
<td>MAIN ROAD, SUDBURY</td>
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<tr>
<td></td>
<td>PRUNING OF HORSE CHESTNUT</td>
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<td>Reasons: To reduce the sail effect</td>
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<td></td>
<td>To extend its effective life</td>
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<tr>
<td>SUDBURY</td>
<td>SUDBURY HALL, MAIN ROAD, SUDBURY</td>
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<td>PRUNING &amp; FELLING OF TREES</td>
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<td></td>
<td>Reasons: Inappropriate location</td>
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<td></td>
<td>Badly damaged/decaying stem</td>
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<td></td>
<td>Heavily overshadowed</td>
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<tr>
<td></td>
<td>Decay in and extending below main fork</td>
<td></td>
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<tr>
<td></td>
<td>To allow access to the boat house</td>
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<tr>
<td></td>
<td>To dry out the land Stunted</td>
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<td></td>
<td>Inappropriate species</td>
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<td></td>
<td>Damaged branch</td>
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<td>To improve the appearance of the tree</td>
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<td></td>
<td>Dead</td>
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<td></td>
<td>To facilitate lawn maintenance</td>
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<td></td>
<td>To prevent damage from children swinging on branches</td>
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<tr>
<td></td>
<td>To improve air flow and prevent disease in nearby Rhododendron</td>
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<td>Dead branches</td>
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<td></td>
<td>To prevent damage to listed building.</td>
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<tr>
<td>KIRK IRETON</td>
<td>IVY COTTAGE, MOOR LANE, KIRK IRETON</td>
<td>PENDING DECISION</td>
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<tr>
<td></td>
<td>PRUNING OF TREES</td>
<td></td>
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<td></td>
<td>Reasons: Decay at base of crown</td>
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<tr>
<td></td>
<td>To reduce the risk of failure Obstructing the highway</td>
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<tr>
<td></td>
<td>To reduce the sail effect</td>
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</tbody>
</table>

**OFFICER RECOMMENDATION:** That the report be noted.
SOUTHERN AREA PLANNING COMMITTEE – 13 May 2014

PLANNING APPEAL - PROGRESS REPORT

Report of the Corporate Director

<table>
<thead>
<tr>
<th>REFERENCE</th>
<th>SITE/DESCRIPTION</th>
<th>TYPE</th>
<th>DECISION/COMMENT</th>
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<td>IH</td>
<td>Appeal Dismissed – Decision attached</td>
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<td>Hasker Farm Cottage, Hasker Farm Stainsborough Lane, Callow</td>
<td>LI</td>
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<td>Ednaston Home Farm, Brailsford</td>
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<td>HH</td>
<td>Appeal Allowed – Decision attached</td>
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<tr>
<td>13/00782/FUL</td>
<td>Cross Ways, Hulland Ward</td>
<td>HH</td>
<td>Appeal Dismissed – Decision attached</td>
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WR - Written Representations
IH - Informal Hearing
LI - Local Inquiry
HH - Householder

OFFICER RECOMMENDATION:

That the report be noted.
Appeal Decision

Hearing held on 6 March 2014
Site visit made on 6 March 2014

by I Radcliffe BSc(Hons) MCIEH DMS
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 April 2014

Appeal Ref: APP/P1045/A/13/2205954
Land at Wash Hills, Town Street, Brassington, Derbyshire (Easting 2324 Northing 5392)
- 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 R. J. Ryder against the decision of Derbyshire Dales District Council.
- The application Ref 13/00093/FUL, dated 8 February 2013, was refused by notice dated 16 April 2013.
- The development proposed is the erection of a dwelling.

Decision

1. The appeal is dismissed.

Procedural matter

2. It was agreed at the hearing that the correct grid reference for the appeal site is Easting 2324, Northing 5392. I have determined the appeal on this basis.

Main Issues

3. The main issues in this appeal are;
   - whether the location of the proposed development would be in accordance with the development plan for the area;
   - the effect of the proposed development on the character and appearance of the area; and,
   - the effect of the proposed development on highway safety.

Reasons

Location

4. The development plan consists of the Derbyshire Dales Local Plan (2005). The National Planning Policy Framework (the Framework) and Planning Practice Guidance issued on 6 March 2014 are material considerations in this case. I have taken both into account.

5. The Local Plan contains a settlement hierarchy which identifies where new development will be permitted. Brassington is not included within this hierarchy. As a consequence, for the purposes of planning policy the village and its surroundings are located in the countryside. In accordance with the Framework policies SF4 and H4 of the Local Plan strictly control new housing in
the countryside. Housing that is essential for agriculture, forestry or other uses that require a countryside location is supported, as is affordable housing to meet an identified local need. However, as the proposed dwelling would be a market house these exceptions do not apply. For these reasons, the location of the proposed development would be contrary to the development plan and harm the spatial vision for settlements in rural areas.

6. Work has begun on a replacement to the Local Plan. The Pre Submission Draft Local Plan (PSDLP) proposes a settlement boundary for Brassington within which limited development would be allowed. The appeal site would be located outside this boundary. However, as the Plan has not yet been submitted for examination little weight can be attached to it.

Character and appearance

7. Brassington lies within open countryside. It is a compact village that is focussed around the junction of roads that pass through it. The appeal site is located on the southern side of the settlement. It forms part of an agricultural field that sits between paddocks associated with housing to the north and the grounds of the isolated Old Rectory to the south. I agree with the Council that the rear garden walls to the houses on Wash Hills Close to the north forms a clear boundary separating the village from open undeveloped countryside to the south.

8. Whilst the appeal site is within an area that has no special landscape designation as a green field it is open countryside that contributes to the setting of the village. I recognise that a sports field is under construction on land in the field to the west. However, this development will consist mainly of a football pitch. As a consequence, it will remain largely open with the pavilion and related development occupying a comparatively small part of the site along the side of the field furthest from the appeal site.

9. In views from Town Street the proposed development would be largely screened from view by a copse of trees along the road. However, the village is located at the head of a small valley. As a consequence, the appeal site is visible from public vantage points such as the public footpath to the west. From this medium distance viewpoint the openness of the appeal site and the field of which it forms a part makes a valuable contribution to the rural setting of the village. The proposed development, along with the manicured gardens and domestic paraphernalia that it would attract, would consolidate development around the Old Rectory. As a result, it would urbanise a significant section of the gap between the Old Rectory and Wash Hills Close. This would have a significant adverse effect on the character and appearance of the countryside.

10. This effect would also be apparent in private views from the Old Rectory, houses close by to the north and houses on higher land in the village. In colder months of the year, when trees along Town Street are not in leaf, the urbanising effect of the house would also be apparent in medium to long distance views from the public footpath on higher ground to the east.

11. The proposed house would be traditional in design and would be constructed from local materials. Nevertheless, this would not overcome the adverse effects that I have described. Taking all these matters into account, I therefore conclude that the proposed development would cause considerable harm to the
character and appearance of the countryside. This would be contrary to policy SF4 of the Local Plan.

Highway safety

12. A field gate on Town Street gives vehicular access to the site. It is proposed as part of the development that this access would be widened and improved. Town Street is a narrow rural road, just wide enough to allow two vehicles travelling in opposite directions to pass. Outside the appeal site and to the south the national speed limit applies. Approximately 65m to the north at the entrance to the village the speed limit drops to 30mph.

13. A traffic speed survey has been carried out by the Highway Authority. It found that the 85th percentile speed of southbound and northbound traffic in the vicinity of the site was 43.6mph and 40.2mph respectively. At such speeds national guidance advises that it would take an oncoming driver in wet conditions travelling southwards 91m to stop and a northbound driver 82m to stop. The County Council has measured horizontal visibility splays for emerging vehicles at the site entrance of 20m for southbound drivers and 15m for northbound drivers. These measurements have not been challenged by the appellant. On the basis that the appellant only has control over a short section of land along Town Street, and what I have seen on site, I have no reason to disagree with these figures. At less than a quarter of the distance sought by national guidance, visibility at the site entrance is severely substandard.

14. In order for a driver to obtain a better view of oncoming traffic, a vehicle exiting the site would have to move forward and encroach onto the carriageway. Given the narrow width of the road and limited visibility this would be a hazardous manoeuvre. On the basis of the traffic speed survey, and the pre-hearing sites visit I carried out during the morning rush hour, Town Street is frequently used by motor vehicles. As a result, there would be a clear danger of collision between oncoming traffic and an emerging vehicle.

15. The proposed development would be a four bedroom detached dwelling. I agree with the Highway Authority that it is reasonable to assume that such a house in a rural location would have a number of cars. On this basis a daily trip rate of 8 vehicle movements (4 departures, 4 arrivals) is reasonable. There was conjecture as to how often the field access is in use. The appellant has provided a letter from a farmer stating that it is accessed up to 4 times a day (2 arrivals, 2 departures). Local residents stated that they usually saw the farmer park on Town Street and that he rarely drove into the field. Either way, it is not in dispute that the proposed development would at least double the use of the access. This is a significant intensification. As a result, the proposed development would result in a demonstrably higher risk to highway safety than is currently experienced.

16. I note that there are no recorded accidents in the vicinity of the site access. However, this does not make the access safe. This is because as it is substandard the probability of an incident is inherently increased.

17. For all of these reasons, I therefore conclude that the proposed development would cause considerable harm to highway safety. This would be contrary to policy TR1 of the Local Plan and the Framework, both of which require a development to have a safe access.
Other matters

Sustainable development

18. Sustainable development and the presumption in its favour are at the heart of the Framework. The appeal site is located within walking distance of the village centre. There is no footway along Town Street linking the appeal site to the village. However, there is a grassed footway which links the appeal site to the village along the side of the houses to the north. As it is wide, level and well drained it is therefore reasonably suitable for a range of pedestrians of different ages and mobility. The village has a limited range of services and facilities. It does not for example have a village shop or a post office. Employment is limited and there is no secondary school. It is necessary therefore to travel to Wirksworth or Ashbourne between 4 and 6 miles away, or beyond, in order to meet the day to day needs of residents. This is too far to walk and the undulating nature of the roads in relation to which the national speed limit applies means that only the most confident would cycle.

19. The village has a bus service linking the village with Wirksworth, Ashbourne and Matlock four times a day. However, in the absence of details of the times that the bus runs it has not been shown that the service could be used for commuting to work, or that it is frequent enough for residents to use to access services and facilities. On the basis of the information available, residents would therefore not have the opportunity to make sustainable transport choices in accordance with the objectives of the Framework.

20. The village has been identified in the PSDLP as a ‘Smaller Village’ which may be appropriate for limited development. However, as I have earlier noted due to the early stage on the road to adoption of this Plan very limited weight can be attached to it. The PSDLP has not therefore altered my finding that the appeal site is not in a sustainable location for development.

21. In relation to the environment, notwithstanding the use of local materials and timber for door and window frames, development of the site would cause considerable harm to the character and appearance of the countryside and to highway safety. In terms of the social aspect of sustainability, the house would make a small contribution to the stock of market housing in the District. Turning to the economic aspects of sustainability, the construction of the proposed house would generate some employment. Post completion the spending of an additional household would also make a small contribution to the economy of the village and the area.

22. My overall conclusion on this issue is that the social and economic benefits of the scheme are small and would not overcome the great harm that would be caused to the character and appearance of the area and to highway safety. This harm would continue long after the benefits of employment associated with the construction of the house has faded. I therefore conclude, on the basis of the overall balance of considerations, that the proposal would not be a sustainable development.

Housing land supply

23. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to provide 5 years of housing against their housing requirements. The Council submitted its Authority Monitoring Report for 2012 to 2013 at the hearing. It showed that allowing for a 5% buffer the
Council has slightly over a 5 year housing supply. However, in the last 10 years the Council has only met its annual housing target on 4 occasions. It was accepted by both sides that this equated to persistent under delivery. In such circumstances paragraph 47 of the Framework advises that a 20% buffer should be applied to their housing land target. As a consequence, it was agreed that the Council does not have a 5 year housing land supply. I agree with that position.

**Overall Conclusions: The Planning Balance**

24. The location of the proposed development would be contrary to policies H4 and SF4 of the adopted Local Plan. These policies seek to strictly control the location of new development, including housing. Such contraventions normally weigh heavily against the proposal. However, the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies governing housing land supply, such as policy H4, should not be considered up to date. Furthermore, on the evidence before me, I find that there is more than a limited degree of conflict between the Framework and the approach of the development plan on the issue of residential development and housing land supply. In these circumstances, full weight may not continue to be given to relevant policies of the development plan, as paragraph 215 of the Framework makes clear.

25. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. However, I have concluded that the development would not constitute a sustainable development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework applies. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

26. The proposal would cause considerable harm to the character and appearance of the countryside and to highway safety. It would also not constitute a sustainable development. These factors weigh very heavily in favour of dismissing the appeal. As a single dwelling the proposed development would make a small contribution to addressing the undersupply of housing in the District. It would also be built from sustainable materials. These factors are of limited weight in favour of the proposed development.

27. My overall conclusion in this case, having considered all other matters raised, is that the adverse impacts of the proposal are considerable. These impacts significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The appeal should therefore be dismissed.

*Ian Radcliffe*

Inspector
APPEARANCES

FOR THE APPELLANT:

Mr Ryder
Chartered Architect, MRTPI
appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Whitmore
Area Planning Officer
Derbyshire Dales District Council

Mr Turkington
Highways
Derbyshire County Council

INTERESTED PERSONS:

Mr Crosby
local resident

Mr Walden
local resident

Dr Heppleston
local resident

Mrs Heppleston
local resident

Mr Beardmore
local resident

Mrs Beardmore
local resident

DOCUMENTS SUBMITTED AT THE HEARING
1 Letter of notification detailing the time, date and location of the hearing together with a list of persons notified.
3 Pre Submission Draft Derbyshire Dales Local Plan, June 2013.
4 Pre Submission Draft Derbyshire Dales Local Plan, Pre Submission Policies Map, June 2013.
5 Policies H1 and SF1 of the Derbyshire Dales Local Plan 2005.
 Appeal Decision

Hearing held on 18 February 2014
Site visit made on 18 February 2014

by D H Brier  BA MA MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 March 2014

Appeal Ref: APP/P1045/C/13/2202654
Hillside Lodge Farm, Kirk Ireton, Ashbourne, Derbyshire DE6 3JT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs B Moxon against an enforcement notice issued by Derbyshire Dales District Council.
- The notice was issued on 25 June 2013.
- The breach of planning control as alleged in the notice is (a) the erection of a building and (b) the formation of an access track.
- The requirements of the notice are:
  1. Demolish the building, remove all the materials permanently from the site and return the land to grass.
  2. Permanently remove the access track and return the land back to grass.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (d) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the notice is upheld with corrections and a variation.

Preliminary Matters

Costs Application

1. At the hearing an application for an award of costs against Mrs B Moxon was made on behalf of Derbyshire Dales District Council. This is the subject of a separate decision.

Background

2. The alleged building is a partially constructed structure that, based on the evidence before me, incorporates remnants of a pre-existing building, together with some reconstruction and some enlargement.

3. Planning permission was granted for the conversion of the previous building to holiday let accommodation in 2009. This permission provided for an access track to Field Lane. The Council’s contention that the failure to discharge conditions and unauthorised rebuilding, including enlargement, resulted in the permission being lost, has not been called into question. Two subsequent applications, one described as the change of use of a redundant agricultural outbuilding to holiday accommodation, and the other labelled the reconstruction of the partially demolished field barn for use as a fodder store,
were refused in 2011 and 2012 respectively. Appeals against the 2 decisions were dismissed in 2012.

The Allegation

4. The allegation refers to the erection of a building, but as a proportion of it is a remnant of the pre-existing structure, and it is incomplete, for instance there is no roof, I consider the allegation ought more appropriately to be described as the extension and alteration of a building. At the hearing the parties indicated that no injustice would be caused by the correction of the notice in this manner, in which case I shall exercise my power to do so accordingly.

Grounds (b), (c) and (d)

5. These are legal grounds of appeal and, as such, are distinct from planning merit. In particular, the Courts have held that the onus on proving them lies with the appellant. In this case it was confirmed at the hearing that the 3 grounds only apply to one of the components of the allegation, namely the access track. I shall therefore consider these grounds on this basis.

Appeal on Ground (b)

6. In order for the appeal to succeed on this ground it has to be shown that the matters alleged in the notice have not occurred as a matter of fact. The appellant accepts that a track has been formed, but points out that the notice is flawed in that contrary to what is alleged, there is no access track in the area shown hatched in green on the plan attached to the notice.

7. From what I saw on site, the enforcement notice plan is incorrect as only a fairly small part of the track appears to fall within the green hatched area. But, as the appellant accepted that a track has been formed, it seems to me that the matter alleged has occurred as a matter of fact. Moreover, as there is only one access track leading to the structure in question and the presence of the track is readily apparent on the ground, I do not consider that what seems to be a cartographic error in the notice plan has caused the appellant to be misled insofar as this component of the matters alleged in the notice is concerned.

8. I heard that no injustice would arise if the appellant’s plan showing the correct alignment of the track was to be substituted for that attached to the notice. Beneficial though this may be in that it would add a degree of clarity, I am not satisfied that this is necessary. As the track is a clearly identifiable feature there can be no ambiguity insofar as what the notice is directed at in this in which case my view is that all that is needed in this respect is the addition of the word “approximate” to the allegation. As there is only the one track here, this would make the subject of the allegation sufficiently clear. As consequence of this, I see no need for the reference to the area hatched green in requirement 2, which I shall delete. I am satisfied that these corrections can be made without giving rise to injustice.

9. In the light of the foregoing, the appeal on ground (b) fails.

Appeal on Grounds (c) and (d)

10. The case regarding these grounds is closely interlinked, in which case I deal with them jointly.
11. Although the ground (c) appeal was made on the premise that the 2009 planning permission provided for an access track in the approximate position of the disputed track, at the hearing it was conceded that if the correct alignment of the track plotted on the plan referred to in paragraph 7 was accepted, then there was no track as approved. Setting aside the contention that the 2009 permission has been ‘lost’, it seems to me that the alignment of the track indicated on the 2009 layout plan is materially different from what now appears on the ground. In particular, for the most part, the approved line of the track, which has an almost ‘L’ shaped form, lies well to the west and south of the track that is in place. As a matter of fact and degree therefore, I am not satisfied that the disputed track is authorised by virtue of the 2009 planning permission.

12. It is also claimed that the access track was ‘restored’ in the summer of 1999. Although no precise dates are given in this respect, it is contended that this was more than 4 years before the notice was issued. However, it was acknowledged at the hearing that the notice that forms the subject of the current appeal was issued under the ‘second bite’ provisions of section 171B (4) (b) and replaces one issued previously on 19 December 2012. In these circumstances the 4 year period goes back to 19 December 2008, and as a result, it was conceded that the ground (d) appeal fails on this basis.

13. The appellant’s case also refers to a pre-existing track leading from Field Lane to the building. The appellant’s photographs, one of which was said to show the 43 year old appellant’s son when he was 16, in which case it would date from around 1987, show what looks like a track, in that there is a linear feature devoid of vegetation which appears physically distinct from the pasture at either side of it. In addition, what looks like a small bund on the lower edge of the feature can be discerned, the presence of which would have been consistent with a track having been cut into the hillside.

14. An aerial photograph said to date from around 1999 was also claimed to show the track. The photograph is not particularly clear, but although a slight difference in colour can be seen within what looks like a ploughed field, whether this was a track as opposed to merely wear marks left by farm vehicles crossing the field, as the Council suggest, is far from clear. Indeed, another aerial photograph said to date from 2000 shows the field down to grass – I cannot make out any sign of the claimed track on it. Two more photographs produced by the Council, said to be from 2009 also show the field down to grass with a hay crop having been taken off it. I am unable to identify anything that resembles a track on them, and it was conceded that the track was completely grassed over then.

15. As I see it, the appellant’s photographs, seemingly dating from the 1980s, strongly suggest that in all probability there was a track at that time. Support for this is also given in a letter from a previous occupier of Hill Side Farm until 1985 who refers to a drive going across the field towards the old barn. However, in the years following the 1980s the picture becomes markedly less clear. It may be that shallow ploughing would have allowed the track to remain intact, and long grass may have obscured it from view, but evidence to demonstrate the continuous existence of a track is very thin.

16. It is by no means unusual for a track such as that featured in the appellant’s photographs to become colonised by vegetation. Be that as it may, such
Evidence as there is strongly suggests to me that in the years leading up to the works said to have been undertaken in 2009, the physical character of the land had changed to such an extent that whatever may have constituted a track beforehand had become assimilated into the local landscape. It may be that some physical vestiges of the track remained, but I find that, as a matter of fact and degree, it was no longer a distinct and recognisable physical entity.

17. I heard that the works involved in forming the present track involved stripping out the previous material, together with additional excavation and the laying of 35cm to 45cm (14” to 18”) of hardcore topped with 5cm to 7.5cm (2” to 3”) of road planings, all of which was imported onto the land. To my mind, the nature and scale of the work as described was substantial and significant. It went well beyond what could reasonably be regarded as maintenance or improvement works. Rather than the adaptation or renovation of a pre-existing track, the works materially altered the physical character of the land to the extent that they amounted to a fresh act of development and marked a new chapter in the history of the land.

18. No claim has been made that the works are permitted development, and, in the apparent absence of any relevant planning permission, I find that there has been a breach of planning control. And, for the reasons given above, I am not satisfied that it was too late for enforcement action to be taken. The appeal on grounds (c) and (d) therefore fails.

**Appeal on Ground (a), the Deemed Application**

19. As noted in paragraph 3 above, 2 recent proposals concerning the structure were dismissed on appeal relatively recently. The main issue as I see it is whether there has been any material change of circumstances since these decisions.

20. The planning policy context has remained unchanged in that Policies SF4 and EDT13 of the Council’s Local Plan, which address development in the countryside and buildings associated with agriculture, still remain in force. Policy SF4 indicates that development in the countryside will only be permitted if, amongst other things, it is required to serve the essential requirements of agriculture, it represents the acceptable re-use adaptation or extension of an existing building and preserves or enhances the character and appearance of the countryside. Policy EDT13 provides for buildings associated with agriculture provided that, amongst other things, there would not be an adverse impact upon the character and appearance of the wider or local landscape.

21. The planning permission granted in 2009 provided for the conversion of what, judging by the photographic evidence before me, was previously a relatively intact field barn. The position now is very different as only vestiges of the original building remain. The Inspector in the earlier of the 2012 appeal decisions recorded that a large part of the building either collapsed or was dismantled and that various new building works had been undertaken. As a result, what now appears is a partly ruinous, partly rebuilt, and partly extended incomplete structure lacking a roof and a good proportion of its walls. The degree of fresh work is such that as a matter of fact and degree I agree with the previous Inspectors conclusions that the structure now effectively constitutes a new building in the countryside.
22. The basis of the current appeal and deemed application is that the appellant wishes to retain the structure which houses the electricity meter and associated installation for the holding. While permission was given for a new agricultural storage building under the Agricultural Prior Notification Procedure in November 2013, after the 2 appeal decisions, it is contended that this is in a more exposed location, in which case it would be better to reconsider the original proposal.

23. Having seen that the electricity supply for the holding comes into it via the structure I can appreciate why having a facility to house the associated meter would be convenient and the terms of the notice mean that another solution will probably have to be sought. However, while this will doubtless have financial implications, no claim was made that insurmountable problems are likely to arise.

24. It was claimed that the structure could perform some function – a tractor shed was cited as an example. But as it was accepted that the approved agricultural storage building would meet the agricultural needs of the holding, and as it is more likely to be suited to the needs of modern farming, this is not a matter to which I attach a great deal of weight. Unlike the appeal structure, which is somewhat isolated from the other buildings on the holding, the approved building would have a closer physical relationship with them and its location is no more or less exposed than that of the disputed building.

25. In the light of the foregoing, even though the electricity meter is not mentioned in the previous appeal decisions, I am not satisfied that there has been any material change in the circumstances since then. I acknowledge that the development in question incorporates some of the original structure and it may be that some other parts of it have been replicated. Nevertheless, I am not satisfied that the works have preserved or enhanced the character and appearance of the countryside. On the contrary, I consider the retention of the structure would adversely affect the character and appearance of the landscape here. As such it would be contrary to Local Plan policies EDT13 and SF4.

26. As well as providing access to the structure and its surrounds, the track also facilitates access for meter readings. This is doubtless beneficial for all concerned, but I am not inclined to attach much weight to this point. In particular, in the light of my conclusions regarding the structure, I am not satisfied that the track is required to serve the essential needs of agriculture or any other rural based land use. The scale and nature of the track – the surfaced part of it is about 3m wide – is such that it appears as a strident feature in its own right and so tends to detract from, rather than preserve or enhance, the character and appearance of the countryside, in which case it too is contrary to Policy SF4. I see this as another disadvantage that adds to my concern.

27. The appeal on ground (a) therefore fails and planning permission will not be granted.

**Appeal on Ground (f)**

28. At the hearing I heard that the Council seek a ‘tidying up exercise’. I see nothing untoward in this aim, but I share the appellant’s concern in that I find requirement 1 somewhat ambiguous. It is clear in that it seeks the removal of
the building which I regard as reasonable given the nature and extent of the new work.

29. However, the notice identifies a large area hatched red within which the building is located, as both the allegation and requirement state. I am satisfied that the reference to the removal of materials relates to the building. However, from the manner in which the requirement is framed it is far from clear whether this is intended to mean the removal of materials from all of the red area, that is beyond the confines of the building as well. Even if this measure is seen as part and parcel of tidying up the site, I consider it is excessive as it goes well beyond the subject of the notice, that is the building. In addition, while ‘return the land back to grass’ is a perfectly reasonable measure in many situations, just what condition the land was in before the building was erected or the wider hardstanding that roughly equates to the red area was formed is unclear. In these circumstances the reference to returning this part of the site to grass is unreasonable and excessive.

30. This view does not apply to the track, however. As noted in paragraph 14, there is evidence that the part of the field it crosses was down to grass in fairly recent times. Moreover, even though the Council have chosen not to require the removal of the fences that flank the track, I do not find the requirement to remove the track excessive. As I see it, this represents a reasonable response to the allegation.

31. In the light of the foregoing, the appeal on ground (f) succeeds to the extent described in paragraph 29 above. The notice will be varied accordingly.

32. I have taken into account all the other matters raised. None, however, are sufficient to outweigh the considerations that have led me to my conclusions.

**Formal Decision**

33. I direct that the enforcement notice be:

   A. Corrected in section 3 by:

      (i) In a) by the deletion of "erection of a building" and its substitution by “extension and alteration of a building.”

      (ii) In b) by the insertion of the words “approximate” between “the” and “area”.

   B. Corrected in section 5 by the deletion of the words “hatched green on the attached plan” from requirement 2.

   C. Varied in section 5 by the deletion of the text of requirement 1 and its substitution by “Demolish the building and remove all resultant materials from the site.”

34. Subject to these corrections and variation, I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*D H Brier*

Inspector
APPEARANCES

FOR THE APPELLANT:

Mr R Yarwood Planning Consultant, Matlock.

FOR THE LOCAL PLANNING AUTHORITY:

Mr W Shaw DipURP MRTPI Senior Planning Officer, Derbyshire Dales District Council.

INTERESTED PERSON:

Mr N Delves Hillside Farm, Kirk Ireton.

DOCUMENTS

1 List of persons present at the hearing.
2 Plan of access track.
3 Google earth aerial photograph showing access track.
4 Blown up copy of Mr Yarwood’s photograph 5.
5 Originals of Mr Yarwood’s photographs 1-6.
6 Grant of Prior Approval for agricultural storage building at Hillside Farm dated 25 November 2011.
7 Location of approved building in relation to Hillside Farm.
8 Enforcement notice dated 19 December 2012.
9 Costs application by Derbyshire Dales District Council.
10 Further representations by Mr Delves and attached documents (Q, R, S, T, V and W).
Appeal Decision

Site visit made on 7 March 2014

by Ian McHugh Dip TP  MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 March 2014

Appeal Ref: APP/P1045/A/13/2202958
Land by Glebe Farm, Commonside, Brailsford, Ashbourne, Derbyshire, DE6 3AX

- 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 Robert Wild against the decision of Derbyshire Dales District Council.
- The application Ref 12/00741/FUL, dated 23 November 2012, was refused by notice dated 21 February 2013.
- The development proposed is erection of a general purpose agricultural building with hardstanding area and extension to access track.

Decision

1. The appeal is dismissed.

Procedural Matter

2. In reaching my decision, I have taken into account the recently published Planning Practice Guidance. However, having regard to the facts of the case, the Guidance does not alter my conclusions.

Main Issue

3. The main issue is whether the proposed building is necessary for the purposes of agriculture on the site.

Reasons

4. The appeal site is an area of grazing land of just under 4 hectares, which is situated in open countryside on the southern side of Commonside. It has an Agricultural Holding Number and the applicant receives the Single Farm Payment from the Rural Payments Agency. Vehicular access to the site is via a track leading from Commonside, which runs between Glebe Farm and Glebe Cottage. A public footpath is located along the eastern boundary of the site.

5. The land is currently used to run a herd of dairy followers, under a seasonal grazing agreement. The grazier owns the stock, but the appellant takes responsibility for the maintenance of the land and for boundary fencing/hedging.
6. The proposal (which is a resubmission of an earlier application for a larger building that was withdrawn) is to erect a new steel-framed three bay agricultural building, with an associated hardstanding and an extension to the access track. The building would be positioned in a prominent position on the site. Although it would not be seen from Commonside or from the neighbouring properties at Glebe Farm and Glebe Cottage, it would be clearly visible from the public footpath.

7. The appellant states that the building is required to house the machinery and other items needed to maintain and improve the land e.g. tractor and topper; tools and equipment; and fencing materials. Currently much of the land maintenance is carried out by contractors. In addition, the building would include an isolation box for treating cattle. At present, the grazier is required to move sick animals from the site to his existing farm, which is approximately 5 miles from the appeal site.

8. Policies SF4 and EDT13 of the adopted Derbyshire Dales Local Plan 2005 (LP) support new agricultural development within the countryside, provided it is an essential requirement to serve and support the agricultural enterprise”. In my opinion, this accords with the provisions of paragraph 28 of the National Planning Policy Framework (the Framework), which seeks to promote a strong rural economy; and to promote the development and diversification of agricultural and other land-based rural businesses.

9. The Council contends that the proposed building is not essential to serve the requirements of agriculture on the holding. It points to the need being dictated largely by the grazier. The Council also states that the building could not be financed from the income of the agricultural enterprise alone. These concerns are also shared by third parties who have made representations against the proposal.

10. The appellant states that if the unit was 5 hectares or more, there would be permitted development rights to enable a building to be erected. It is argued that this figure is arbitrary and a building is still required on smaller holdings. Whilst that may be the case, planning permission is required in this instance, and I must therefore determine the appeal on its merits, having regard to the development plan; the evidence presented to me; and other material considerations.

11. In reaching my decision, I have given careful consideration to the appellant’s case, and in particular to his desire to improve the quality of the land; to undertake the maintenance himself (rather than employing contractors); to make the holding self-sufficient; to accord with the cross compliance requirements of Defra; and to enable the smallholding to diversify in the future. However, I also note that the grazier has, to date, been able to use the site for grazing purposes (without a building), and has continued to renew the agreement. This indicates to me that the land has been, and can be, put to a beneficial use without a building of the size proposed.

12. I acknowledge the appellant’s statement that financial appraisals are only required to support proposals for new agricultural dwellings. However, I have not been provided with any substantive evidence that would lead me to conclude that a building of the size proposed an essential requirement for the
operation of the agricultural enterprise. In addition, I have no evidence to show that the construction of the proposed building would lead to the business becoming self-sufficient and sustainable in the longer term.

13. I also note that the grazier regards the storage space and isolation box (which would occupy one third of the building) as being “very useful” and that it would save time and transport costs. However, in my opinion that is not the same as an essential requirement. In addition, there is no certainty that either the grazier or the appellant would continue with the current agreements, as these are the subject of renegotiation on an annual basis for each summer season between April and October. This adds to my reservations regarding the essential need for the building in the longer term.

14. Whilst I accept that an agricultural building on the site would be desirable from the appellant’s point of view, I am not fully persuaded that the evidence submitted meets the strict requirements required by Policies SF4 and EDT13 of the LP. Consequently, I conclude that the building is not essential to meet the requirements of the holding, and it would result in built development in an open location that is generally devoid of buildings, without any clear justification.

Other Matters

15. Concern has been expressed by a third party that the proposed use of the access would be detrimental to highway safety. However, the access already exists and I have no reason to consider that the use would increase as a result of the proposed building. Consequently, this matter does not weigh against the proposal.

16. The Council concludes that the proposal would not have a harmful effect on the living conditions of the occupiers of the neighbouring residential properties at Glebe Farm and Glebe Cottage. Given that the building would not be visible from these properties, together with my conclusion that there would be no material increase in vehicle movements, I have no reason to disagree with the Council’s findings on this matter.

Conclusion

17. For the reasons given above it is concluded that the appeal should be dismissed.

Ian McHugh

INSPECTOR
Appeal Decision

Site visit made on 19 March 2014

by D J Barnes MBA BSc (Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 March 2014

Appeal Ref: APP/P1045/D/14/2214005
Copley Cottage, Ashbourne Green, Ashbourne, Derbyshire DE6 1JD

- 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 John Williams against the decision of Derbyshire Dales District Council.
- The application Ref 13/00733/FUL was refused by notice dated 16 December 2013.
- The development proposed is a single storey side extension.

Decision

1. The appeal is allowed and planning permission granted for a single storey side extension at Copley Cottage, Ashbourne Green, Ashbourne, Derbyshire DE6 1JD in accordance with the terms of the application, Ref 13/00733/FUL, 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: Drawing Nos. 02B and 03.
   3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. Since the submission of this appeal the Planning Practice Guidance has been published. Although regard has been had to this guidance it does not materially alter the matters which have been identified by the parties.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the property and the surrounding area.

Reasons

4. The proposed development includes the erection of a single storey extension of contemporary design sited to the side of a 2-storey dwelling. The host property was originally a modest sized cottage but has been significantly altered and extended which has also resulted in a mix of fenestration details and variations in roof forms. The rendered walls assist with assimilating the various alteration and extensions which have already occurred.
5. Policy H2 of the Derbyshire Dales Local Plan (LP) refers to extensions to dwellings not resulting in a detrimental impact on the character and appearance of the dwelling and its surroundings. Although I acknowledge the Council’s claims about the appearance of the side elevation, I have considered the effect of this modest sized single storey extension on the character and appearance of the property as a whole rather than just one aspect.

6. The property is set well back from the road to the rear of a grass area which includes mature trees. The property is visible from the road but the views are limited in their extent by a combination of the road’s horizontal and vertical alignments and the existing vegetation, including the substantial hedge which partially defines the property’s curtilage. For these reasons, the property is not a prominent feature when viewed from the surrounding open countryside other than from the immediate viewpoints along the road.

7. The appeal scheme is sited on an area currently occupied by a patio which is situated between the property’s side elevation and a boundary hedge. The side elevation faces towards, and can be seen from, the road and includes both part of the original dwelling and a subsequent 2-storey extension. From the road, the roof of the appeal scheme would be visible above the hedge but would be viewed against the context of the flank wall of the previous 2-storey extension.

8. By reason of the roof form, the proposed extension would possess a contemporary appearance but I am mindful that there is already a varied rooftopscape. By reason of the alterations which have been undertaken to the original dwelling, the proposed extension being viewed against the context of the side elevation and the vegetation filtering views from the road, the siting and design of the appeal scheme would not cause a materially detrimental impact on the character and appearance of the property as a whole. However, it would be appropriate for a condition to be imposed requiring the use of materials to match the host property, in particular the rendering of the proposed walls.

9. Because of the limited views and its relationship with the property the appeal scheme would be neither an unduly prominent nor incongruous form of development when viewed from the surrounding open countryside. The proposed extension would not unacceptably detract from the character and appearance of the surrounding area which comprises open and verdant countryside with individual dwellings and groups of buildings of varying types and styles. The requirement of LP Policy SF5 to preserve the quality and local distinctiveness of the property’s surroundings would be satisfied.

10. The appellant notes the constraint associated with the design of the proposed extension imposed by the retention of the bathroom window. However, the retention of this window has only been given limited weight because it appeared from the site visit that it could be erected within the rear elevation.

11. Accordingly, it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the property and the surrounding area and, as such, it would not conflict with LP Policies SF5 and H2. These policies are consistent with the National Planning Policy Framework’s (the Framework) core principle of securing high quality design. This matter is also referred to in the guidance.
Conditions

12. For the reason already identified, the Council’s suggested condition requiring
the use of matching materials is considered necessary when assessed against
the guidance. For reasons of proper planning, it is necessary for conditions to
be imposed requiring the proposed development to be constructed in
accordance with the submitted drawings and for the use of matching materials.

13. Accordingly, and taking into account all other matters including the
Framework’s presumption in favour of sustainable development, it is concluded
that this appeal should succeed.

D J Barnes

INSPECTOR
Appeal Decision

Site visit made on 19 March 2014

by D J Barnes MBA BSc (Hons) DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 March 2014

Appeal Ref: APP/P1045/D/14/2213923
Cross Ways, Hulland Ward, Ashbourne, Derbyshire DE6 3EE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr David Balls against the decision of Derbyshire Dales District Council.
- The application Ref 13/00782/FUL was refused by notice dated 16 January 2014.
- The development proposed is the conversion of two barns to residential space and to infill space between barns and main house with an extension.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the submission of this appeal the Planning Practice Guidance has been published. Although regard has been had to this national guidance it does not materially alter the matters which have been identified by the parties.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the property and the surrounding area.

Reasons

4. The appeal property comprises an extended dwelling, a former barn and an outbuilding which form a group of buildings which are used for residential purposes. The proposed development includes the erection of a 2-storey extension and alterations to the external appearance of the former barn.

5. Based upon the site visit, the former barn is in ancillary residential rather than being used for agricultural purposes. Accordingly, I share the appellant’s view that the Council’s Supplementary Planning Document: The Conversion of Farm Buildings Design Guidance is not specifically applicable to the determination of this appeal. However, the objections by the Council to the design of the proposed development can be appropriately considered against the requirements of Policies SF5 and H2 of the Derbyshire Dales Local Plan (LP).

6. The former barn’s flank wall, which facing towards, the road still possesses a simple appearance which is related to its previous use. The original openings within this wall have been blocked-up but stone lintels and ventilation slits have been retained. The appeal scheme includes the erection of 5 windows which are not all positioned in the same locations as the original openings.
7. The proposed windows vary in size and height above the ground level which means they lack a cohesive appearance and the fenestration of this wall would not be of a high quality of design. I share the Council’s concerns about the ratio between the number and size of the openings and the retained brickwork detracting from the simple appearance of this building when viewed from the road. As a consequence, the appeal scheme would be detrimental to both the character and appearance of this former barn and the streetscene.

8. The proposed extension would be erected on an existing open patio area and would be of a similar height to the adjacent buildings. This element of the appeal scheme would be visible from the A517, including the bus stop. The proposed elevation facing towards the A517 would give the impression of a former barn which had been converted and this appearance would be accentuated by the use of matching materials and timber windows.

9. However, the proposed extension would significantly increase both the size of the already extended host dwelling and the scale, massing and built extent of this group of buildings. By reason of its size, rather than being subservient the proposed extension would be a visually dominant addition to the dwelling and this group of buildings. Accordingly, the appeal scheme would adversely harm, rather than preserve, the open character and appearance of the surrounding area which is related to the open countryside on the edge of the settlement. The adverse harm which has been identified significantly and demonstrably outweighs the design of the proposed extension when viewed from the A517.

10. Reference has been made by the appellant to other schemes within the surrounding area which were visited during the site visit. The detailed planning circumstances of these other schemes have not been provided and in the absence of this information only limited weight has been given to these schemes in the determination of this appeal. I acknowledge that the proposed development would not cause adverse harm to the living conditions of the occupiers of neighbouring properties but this matter does not alter the main issue in this case.

11. Accordingly, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the property and the surrounding area and, as such, would be contrary to the high quality design aims of LP Policies SF4, SF5 and H2. These aims include development preserving or enhancing the quality and distinctiveness of its surroundings and extensions not having a detrimental impact on the character and appearance of the dwelling. These policies are consistent with the National Planning Policy Framework’s (the Framework) core principle of securing high quality design and that planning permission should be refused for development of poor design that fails to take the opportunity available for improving the character and quality of an area. The guidance also refers to the importance of high quality design. Accordingly, and taking into account all other matters including the Framework’s presumption in favour of sustainable development, it is concluded that this appeal should fail.

D J Barnes
INSPECTOR