6 July 2015

To: All Councillors

As a Member or Substitute of the Planning Committee, please treat this as your summons to attend a meeting on Tuesday 14 July 2015 at 6.00pm in the Council Chamber, Town Hall, Matlock.

Yours sincerely

Sandra Lamb
Head of Corporate Services

AGENDA

SITE VISITS The Committee is advised a coach will leave the Town Hall, Matlock at 3.00pm prompt. A schedule detailing the sites to be visited is attached to the agenda.

1. APOLOGIES/SUBSTITUTES

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

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETINGS

Planning Committee – 24 June 2015

3. INTERESTS

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

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

PUBLIC PARTICIPATION

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

4.1 APPLICATION NO. 15/00206/FUL (Site Visit)
Replacement of Band Hall with 5 Apartments at The Hall, Jackson Road, Matlock

4.2 APPLICATION NO. 15/00208/FUL (Site Visit)
Proposed horse training area and hardstanding at North Park Farm, Whitworth Road, Darley Dale

4.3 APPLICATION NO. 15/00245/FUL (Site Visit)
Residential development of up to 10 dwellings (outline) at land off Nottingham Road, Tansley

4.4 APPLICATION NO. 15/00276/OUT (Site Visit)
Erection of dwelling (outline) land to the west of Field House, Starth Lane, Tansley

4.5 APPLICATION NO. 15/00305/OUT
Residential development of up to 20 dwellings (outline) at former Harvey Dale Quarry, Dale Road, Matlock

4.6 APPLICATION NO. 15/00341/FUL
Conversion and redevelopment of former school to create extra care community facility – revised design of residential blocks A and B comprising 35 units and incorporating care office at St Elphins School, Dale Road South, Darley Dale

5 APPEALS PROGRESS REPORT

To note a report on appeals to the Planning Inspectorate.

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

Members of the Committee
Councillors Garry Purdy (Chairman), Tony Millward BEM (Vice Chairman),
SITE VISITS

Members will leave the Town Hall, Matlock at 3.00pm prompt for the following site visits:

3.05pm Application No. 15/00206/FUL
THE BAND HALL, JACKSON ROAD, MATLOCK
Requested by the Ward Member to assess the impact on the amenity of neighbouring residents and the character and appearance of the Conservation Area.

3.40pm Application No. 15/00208/FUL
NORTH PARK FARM, WHITWORTH ROAD, DARLEY DALE
Requested by Development Manager, given the level of public interest and the planning history of the site.

4.15pm Application No. 15/00245/OUT
LAND OFF NOTTINGHAM ROAD, TANSLEY
Requested by Development Manager to assess the impact of the proposal upon the character and appearance of the open countryside, highway safety and ecological matters.

4.30pm Application No. 15/00276/OUT
LAND TO THE WEST OF FIELD HOUS, STARTH LANE, TANSLEY
Requested by Ward Member to assess the impact upon landscape character.

5.00pm RETURN TO TOWN HALL, MATLOCK

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.
15/00206/FUL

The Hall, Jackson Road, Matlock, Derbyshire

Derbyshire Dales DC

Date: 03/07/2015

100019785
15/00206/FUL  REPLACEMENT OF BAND HALL WITH 5 APARTMENTS AT THE HALL, JACKSON ROAD, MATLOCK FOR MR JAMES PROBERT

Town Council: Matlock  Date of receipt: 24.03.15
Application type: Full  Case Officer: Mrs H. Frith

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

THE APPLICATION:
The application is for the demolition of the existing band hall building and its replacement with an apartment building. It is proposed that 5 apartments would be incorporated into the building which has 3 storeys, but with only 2 presented to Jackson Road. To the lower ground floor apartment 1 is a one bedroom unit, apartment 2 a one bedroom unit. To the ground floor apartment 3 is a two bedroom unit, apartment 4 is a split level 2/3 bedroom unit with independent access from the porch to the eastern elevation. To the upper floor apartment 5 is a two bedroom unit and the upper floor of apartment 4 fills the remainder of this floor. Other than apartment 4 the remainder of the apartments are to be accessed via a central communal access leading from the front elevation to Jackson Road.

The proposed building is of 2 storeys in height from the Jackson Road elevation with windows on the upper floor projecting above the eaves. The roof is stepped and lower than that of the adjacent terrace to the west. The building forms a block with a three window section, central access and a two window section to the eastern end of the building.

To the rear the property would be enclosed by a boundary wall with gates giving private amenity space to the 2 lower ground floor apartments and a bin storage area.

The rear elevation has been staggered with elongated projecting bays being utilised to minimise the impact upon the neighbouring properties. The central entrance has narrow elongated windows to allow light into the stair area.

To the lower ground floor light will come into apartments 1 and 2 from full height glazed elements which would be hidden from public view behind the proposed boundary wall. To the rear elevation of ground floor apartments 3 and 4 are projecting bay windows which project approximately 0.4m with obscure glazing to the main panel to head height and clear glazing to the remaining elements to allow light and oblique views. Windows will also serve these two apartments from the front elevation on the ground floor. The two projecting gables on the rear elevation have full height windows serving the habitable rooms of these flats.

The building is to be of stone construction with slate roofing and a modern metal framing to the windows. Parking is proposed for four vehicles to the front of the building with surfacing defining the parking area and a central paved element to allow pedestrian access into the building with one further parking space for apartment no. 4 to the eastern side elevation. This parking space would be double parked behind one of the spaces on the road frontage.
The applicant has submitted a detailed design and access statement which makes the following key points:

- The architect has undertaken extensive contextual analysis and historical research which has fed into the design process.
- This application follows on from a refusal in 2014 where members expressed concern regarding overdevelopment.
- Rather than appeal, the scheme has been redesigned addressing matters of scale, massing, relationship, parking, access to bins and amenity space.
- The site is located on a steep slope and is an irregular piece of land bounded by Jackson road to the north and a narrow path linking to Wellington Street.
- A variety of dwellings in terms of age and design surround the site.
- The existing prefabricated building was erected by Matlock Town Band in 1970.
- The Hall was sold in 2012 due to its condition.
- The building sits on a raised terrace on the site.
- The practice venue for the Band has been relocated and the Band continues to pursue an active role in the community.
- The site is a sustainable location for new housing.
- The Band Hall is a negative feature noted in the Matlock Bank Conservation Area Appraisal.
- The proposal is an opportunity to significantly enhance the appearance and character of the area with a contemporary building.
- Jackson Road is one of the oldest in the Conservation Area and is characterised as having irregular islands of development with roads and tracks running between them.
- Houses immediately surrounding the site are two, two and a half and three storeys in height, in this context it is appropriate to look at a building that is two storeys to Jackson Road and three storeys to Wellington Street.
- Stone is the dominant material in the area, there is also some brick and render, slate is dominant to roofs.
- The site is constrained due to the level changes and the proximity to neighbouring dwellings.
- The proposal meets planning policy requirements.
- The building will not adversely affect neighbouring residents and has been carefully designed so as to avoid adverse impacts.

The applicant has submitted a statement in response to the objections raised:

- Concerned that some of the reasons behind the negative consultation letters are down to a misunderstanding of the design detail.
- Concerned that the weight and tone of the consultation letters could mislead a planning committee.
- In addition to the procedural site visit, we are keen to offer an open invitation to Councillors to visit the Band Hall prior to the planning meeting.
- It is entirely wrong to suggest we are removing an existing parking space as the road side boundary of the property is double yellow lines.
- Highways have clearly considered emergency access issues, policy requirements, pedestrian needs and disability access issues. All of these issues were deemed appropriate in their no objection planning consultation response.
Parking is difficult at peak times on Jackson Road. The problem is largely County Council workers using the road for overspill parking. This occurs from 9am until 5pm. The proposed apartments will be for sale on the open market and are highly likely to be owned by working people. They are therefore likely to be at work from 9-5 and will not add to the overspill on Jackson Road.

The whole form and orientation of the design was driven by the need to minimise south facing windows and to use viewing angles that are south west and south east. Had the design attempted to mimic a traditional Victorian terrace, then all of the windows to the South elevation would have been directly overlooking the closest neighbours. The proposed scheme successfully avoids this and very consciously blocks views into specific properties. The success of this is demonstrated by the modelled views presented for each window where overlooking might be an issue.

We have used obscured glass to the windows where necessary. There will be no opening windows that compromise the blocked views.

Those windows with glazing bars have had the height of the horizontal bar specifically designed to separate obscure lower panels from clear glazed high level panels at the eye level.

The proposed rear wall that bounds the site is to be 2m high, the gates will be solid.

Most of the existing properties currently overlook and are overlooked by others, this is typical within the locality.

The building has been designed to also avoid loss of light to other properties.

By granting permission for this scheme the noise nuisance and parking pressure from other users of the Band Hall would be permanently removed.

Design is often based on personal opinion, modern buildings should look modern and should not pastiche the older designs.

The roofline and building shape works. It has the rhythm of a row of terraces from the rear and the roofline works well in breaking the mass of the elevation. In order to avoid the southern overlooking we developed larger modern glazing units. A full contextual analysis was completed and our scheme fits in well with the street scene.

The scale and density of the development is appropriate.

Due to concerns over the overbearing of no 35 and 33 we have made all of the reductions to the building at the western end of the site. This improved overbearing and proximity at this point is dramatic.

Our concern is that members correctly understand the complicated proposal and that the debate is balanced so that the decision is fair.

RELEVANT HISTORY:

14/00672/FUL Replacement of band hall with 6 apartments – Refused for the following reason:

The proposal is considered to be an overdevelopment of this constrained and sensitive site within the Matlock Bank Conservation Area. The building proposed by reason of its scale, massing and design will appear incongruous and oppressive in its context thereby harming the character and appearance of the Conservation Area and the amenity of surrounding residents. As such the proposal is contrary to Policies SF1, SF5, H1, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

0385/0180 Retention of building without compliance with condition 4 of WED/0478/248 – Permitted
0478/0248 Renewal of consent for social building for band practice and public performance – Permitted

This permission was subject to a number of conditions:
1. The normal time limit condition for commencing works
2. Restriction of the use for the band practice only and for associated fund raising/social activities
3. Restriction of times of use between 0900 and 2145 Monday to Saturday and 1000 to 2000 on Sundays and that the agreed sound proofing scheme is installed prior to the use commencing.

CONSULTATIONS:
Town Council – Recommends refusal of the application. Whilst there has been a reduction in the number of properties, their previous concerns still remain, namely: the council believes this development will put pressure on parking in the area. This plot is a very restricted site and the council believes the density of housing is excessive for the size of the site. The design and appearance of the development is harmful to the character of the neighbourhood and concerns are raised on the impact of loss of privacy, overlooking and loss of amenity to adjacent properties.

Local Highway Authority – Concerns were initially raised that bins in the bin collection area could obstruct emerging visibility from the adjacent side road. Further information provided by the agent showing bin storage areas and a bin dwell area on collection days. As this bin store is only to be used on collection days, the rest of the time each apartment has its own bin dwell area. Therefore, as bins will only be stored adjacent to Jackson Road temporarily on collection days, this is now of no concern from a highway safety viewpoint.

Therefore, like the previous application (14/00672), the Highway Authority has no objections to the proposals subject conditions and footnotes.

Conservation Advisory Forum – CAF compared the scheme which they previously discussed, and which was refused, and the current submitted scheme. They concluded that the comments they had previously made (below) remained pertinent. CAF acknowledged, however, that in the current scheme provision of bin storage etc. and a proposal to reduce the impact of the blank gable had been made, but their over-riding views remained the same as previous.

Previous comments: Members objected to the proposed scheme. Consider that the intensity of development leads to a number of elements that are harmful to the character and appearance of the Conservation Area. This relates to car parking area directly fronting the building which has a harmful impact on the street-scene in that the road has no direct sense of enclosure and a widened roadway is created. Members felt that the design of the development demonstrated an over-detailed design and appearance, again due to the intensity of development and the constraints of the site. The complicated roof-line resulted in a visually piecemeal development displaying a scheme which was not appropriate to its location and context.
Derbyshire Wildlife Trust – The latest correspondence does not address the issues raised in respect of the presence of slow worms in the area and the need to give consideration to their presence given the presence of suitable habitat on site. Given the isolated nature of the site a method statement is required to be produced by a suitably qualified ecologist to in terms of the Slow Worms and mitigation measures during construction, a condition is acceptable in this regard. At least one evening emergence survey for bats is required to be carried out by a suitably qualified ecologist; an update on this matter will be presented to the committee.

REPRESENTATIONS:

Matlock Civic Association:
- No objection to residential development welcomed the removal of the building which is becoming an eyesore.
- Aware of the recently refused application and the reduction in scale and massing of 20%.
- Members still considered the proposal is an overdevelopment of the site.
- A reduction to 4 units may give more opportunity to remedy any overlooking and massing problems.
- Excessive car parking demand generated by a 5 dwelling development causing congestion on Jackson Road.
- Difficult to accommodate the required number of recycling bins within the curtilage.

11 letters of support received raising the following points:
- The building is an eyesore and needs to be replaced
- High cost development due to the difficulties of the site, otherwise the site will deteriorate further
- The building will suit and improve the street scene
- Materials and proportions fit well with the Conservation Area
- The design cleverly avoids overlooking
- Adequate parking spaces are provided
- Properties on the hillside are built high against the neighbours boundaries, houses adjoining the site are more overlooked by existing buildings than that proposed
- The scale and mass of the building is appropriate
- There is a need for flats in the area
- Having carefully considered the plans we are confident that all precautions have been taken by the builders which in the long run will enable better access along this stretch of road and will make what is an eyesore a pleasant addition to the road
- The existing building will become dangerous
- It will look good when complete
- The material will be stone, much better than the existing
- The new design is much smaller on the far side of the building away from neighbours
- This design has less windows on the rear
- 5 flats are better than a terraced row and have less impact
- Unlikely to be bats in the building, as it shakes in the wind

1 letter making a comment:
Support the replacement of the building with sympathetic development but important that neighbour objections are addressed. The development needs to maintain the character of the area.

12 objectors have sent in 17 letters of objection and a letter with petition raising the following points:

Design
- Not opposed to redevelopment but the specifics of this proposal
- The design is not sympathetic it should be more simplistic and in keeping with the existing development as seen elsewhere in Matlock
- The design is out of keeping with the vernacular
- The design should contribute positively to the area
- A simple terraced row would be preferable
- The modern design should not be overpowering
- The new proposal is virtually the same as the previous
- This is a sensitive Conservation Area where a design is needed that will stand the test of time
- The appearance and capacity is out of character
- This site is a unique opportunity that should not be lost
- The site is only capable of accommodating one or two dwellings to confirm to the nature of the area
- The proposal also fails to secure good design again contrary to the NPPF, the views the consultees reiterate this.
- The building is too high
- The views of the Conservation Advisory Forum should be considered
- The views of Matlock Town Council should be considered
- The views of Matlock Civic Association should be considered
- The views of these respected bodies should aid your decision making
- Only a single storey element has been removed
- The design is good but not in this location
- The building would be equally incongruous as the High Court Flats

Amenity
- The design is still too overbearing and does not afford privacy for the near neighbours
- The living room windows of apartment 4 will overlook no’s 33 and 35 Wellington Street.
- Apartments 3 and 4 will overlook no’s 17, 19, 27 and 29 Wellington Street.
- The issue of overlooking has not been addressed
- The images that show the lack of overlooking are taken from deep within the rooms and do not show what will happen when residents are closer to the windows.
- Windows will need to be fully obscure glazed not partially
- The internal floor layout should be the opposite way around to have the bedroom windows to the rear therefore having smaller windows and ensure no overlooking
- The existing three storey properties are further away from their neighbours than this would be
- The overbearing impact of the development has not been removed
- The submitted graphics are misleading
Policy issues

- The development is contrary to Policies SF1, SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan, these policies are still in line with the National Planning Policy Framework (paragraph 215).
- The development fails to fulfil the social and environmental roles of sustainability as defined in the NPPF.
- The previous reason for refusal remains valid.

Land stability

- Concerned about land stability.
- Concerns regarding the integrity of the road during construction.
- No geological survey of the site has been carried out.

Highways

- How will construction traffic operate at the site given the constrained nature of the road network?
- The development will increase rat running along Jackson Road.
- The parking is insufficient, there is already intense parking pressure in this area.
- Inadequate manoeuvring space.
- The parking will emit fumes into the close windows of the building.
- The location of the bin store to the back of the property is a problem as a refuse vehicle cannot access this area.
- The footpath to the rear is not suitable for vehicles.
- The aims of the Highway Authority should be not only safety but a free flow of traffic which would be hindered in this case.
- Bin lorries and emergency vehicles often cannot access this road.
- The proposal would result in a net reduction in parking in the area.
- There is insufficient practical storage for 15 bins.

Other

- There are bats using the building.
- The land to the rear has local flora which will be lost.
- The community use should be retained.
- Building work will cause noise and disturbance.
- The flats are not required for any contribution to housing stock.
- Concerned regarding the lack of natural light in some of the lower ground floor rooms.
- Financial issues should not be taken into account as this is not a planning matter.
- Concerned that a letter of support was written by the developer for a resident.
- Concern that at the previous planning committee a 'local resident' did not properly define connection with the development.
- The reduction in the size of the building is much less than 20%.
- Will the excavations impact on the foundations of neighbouring dwellings?
- There are underground streams in the area.
- Has a radon survey been done.
- Density is too great.
- Concerned regarding the loss of the garden on the south side as this would have provided an opportunity for screening.
- Contrary to the views of the applicant neighbours have faith in the ability of Members to consider the detail of the application.
- The proposal is overdevelopment of a constrained site.
• If viability is an issue it is important to note that: the site originally sold for £52,500 on the 10th February 2012, the site was then sold on for £76,000 on the 18th February 2014, then again on the 8th April 2014 for £111,000. If viability is an issue the residual value of the site appears to have been artificially inflated. The District Valuer would be able to give a true picture of its worth.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF1: Development Within Settlement Framework Boundaries
SF5: Design And Appearance Of Development
H1: New Housing Development Within Settlement Framework Boundaries
H9: Design And Appearance Of New Housing
NBE21: Development Affecting A Conservation Area
TR1: Access Requirements And The Impact Of New Development
TR8: Parking Requirements For New Development
S12: Important Local Services And Facilities

National Planning Policy Framework
National Planning Practice Guidance
Matlock Bank Conservation Area Appraisal

ISSUES:
The issues for consideration are: the principle of the development in this location, the impact upon the character and appearance of the Conservation Area, the impact upon residential amenity, highway safety and parking, impact upon ecology and land stability.

Principle
The application site is a brownfield site within a sustainable settlement which is considered suitable for residential development in principle in accordance with guidance contained within the National Planning Policy Framework.

However, there is an existing community use on the site and its loss has to be carefully considered. Policy S12 of the Adopted Derbyshire Dales Local Plan, seeks to protect local services and facilities, this is supported by paragraph 70 of the National Planning Policy Framework. In this case the building has not been in use for some years and the Band that formerly practised in the building now use other community facilities in the area. In view of this and the availability of other community building within Matlock the loss of the Band Room as a community facility is acceptable in accordance with Policy S12.

Design and Appearance
The previous application relating to development at this site (note the reasons for refusal above) raised concerns with regard to scale, massing and design of a similar development for a total of 6 apartments. In that application the proposed building was to be 23.07m in length, 9m wide and 7.3m high. In this latest application the proposed building is to be 20.9m in length (including the porch) (20.1m excluding the porch), 9m wide and 7.1m high. Therefore the scale of the building for the 5 apartments has decreased slightly.

In terms of the design the front elevation is similar to that of the previous application with the removal of a single storey element and the introduction of a porch to the side elevation. To the rear the changes are more significant as follows:
• Introduction of more roof lights
• the removal of the upper projecting bay windows from the projecting gables
• removal of the full height glazing to the recessed element with all higher level glazing removed and two windows at the lower level, the lower part of which would be obscure glazed
• 4 projecting bay windows are now evenly spaced along the projecting gables

The design put forward has taken into account the desire to ensure the ridge height of the building is no higher than the adjacent terrace and the eaves height is kept as low as possible. The existing Band Room is approximately 2.8m lower than the ridge of the neighbouring terrace. According to the submitted plan the proposed building will be 0.4m below the height of the adjacent terrace.

The bulk of the building has been broken up by using varying projections and ridge lines. To the eastern end of the site a platform would be created at ground floor level for parking and storage of bins. This will ensure there is a break in development at the point of the access to the land running to the rear of the site allowing glimpses through the site to the development below. The design details of the windows to the front elevation have been designed to ensure that lower ridge height using a modern interpretation of a traditional window pattern ensuring the vertical emphasis. A central doorway on Jackson Road provides access to 4 of the flats.

To the rear elevation a modern approach to window design has been chosen to ensure that the development has minimal impact upon residential amenity. This modern design approach is considered to be appropriate to this location where there is a mix of traditional and modern housing. It is considered that a traditional design on this very constrained site would not have been appropriate as the constraints could not be overcome by a traditional approach.

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

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

The proposed development is non-traditional and does not reflect the appearance of older properties within the Conservation Area. The development only has one entrance thereby having the appearance not as a domestic property but of a block of residential properties or commercial property. The proposed building will also be prominent in the locality as it is in an elevated position clearly visible from Wellington Street. These negative factors of the proposal have to be considered against the benefits.

The site is within the Matlock Bank Conservation Area, where the existing building has been identified as a negative element within the Conservation Area due to its inappropriate materials. The proposed development will ensure the site is redeveloped with a building in
natural materials more in keeping with the character and appearance of the Conservation Area. Development within a Conservation Area should preserve or enhance that area in accordance with Policy NBE21 of the Adopted Derbyshire Dales Local Plan. It is considered that this development with the removal of the existing building and the use of traditional materials with contemporary elements will overall enhance the character and appearance of the Conservation Area. The high level traditional walling to the rear lane will also enhance the area by providing a sense of enclosure to the lane.

Notwithstanding the fact that committee has previously rejected a scheme on this site and the Conservation Advisory Forum remain concerned about the adverse impact of this development on the character and appearance of the Conservation Area, the officer view is that on balance the proposal is appropriate to this context where there is a variety of built development. As such the proposal complies with Polices SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

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

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

The projecting bays with part obscured glazing will ensure that views from the flats are directed towards the distant views rather than looking down into neighbouring dwellings. There may be some potential for overlooking from the clear glazed elements of these bays but this is considered to be minimal and would not warrant refusal.

The elongated windows to the stairwell are not considered to cause any overlooking; in addition these windows serve a communal area that does not form habitable accommodation.

There are two elongated glazing sections facing east which will serve the habitable accommodation of the ground floor apartments 3 and 4 and to the upper floor in relation to apartment 5 only. The western most of these glazed elements which also relates to the upper floor will be screened by the projecting bays of this development and therefore will not cause significant overlooking. The eastern most of these elements is to the ground floor only and will have oblique views over the garden area of no. 35. Whilst this may be finely balanced in terms of whether a refusal would be warranted in this regard it is considered that the partial obscure glazing of this window to head height (1.8m) along with the associated alteration to the glazing bar detail, will be sufficient to ensure that overlooking is minimised such that a refusal would not be warranted in this regard. A condition will ensure this is the case.
Conditions will be required to ensure that the windows to the rear are obscure glazed where necessary and a detailed submission showing the window openings is also required to protect amenity. Subject to these conditions it is the Officer view that the impact on residential amenity is not so onerous as to warrant refusal and the proposal is considered to be in accordance with Policies SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the NPPF.

Concern has been raised by residents that the proposed building will have an overbearing impact upon them. Due to the change in levels associated with this site and the surroundings the development will have some impact in terms of being overbearing. Given the nature of the site it is likely that any development would have some impact in terms of being overbearing. In this location older properties do tend to have close relationship with one another where there is an element of either overlooking or overbearing impact. It should be noted that the proposed building is 5m in height 13.5m in length and is only 2.2m from the rear boundary wall (measured at the closest point). The proposed building would be 2m higher than the existing, 7.9m longer (including the porch) and 1.2m wider.

This proposal is of a slightly lesser scale than that refused under 14/00675/FUL and therefore it has to be considered as to whether the issues of scale and mass have been overcome. Whilst the changes are modest it is the Officer views on balance that the proposal is now acceptable in terms of the scale and mass of the building bearing in mind the scale of the existing building on site and the site topography. In terms of residential amenity the proposal is therefore considered on balance to be appropriate in accordance with Policies SF1, SF5, H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the NPPF.

Highway Safety and Parking
It is acknowledged that on street parking within this locality is difficult and that ideally residents would like to have as much parking provision as possible. Parking requirements in areas that can be served by public transport are minimal and the highway authority who advised on these matters are satisfied that the amount of parking proposed is acceptable and the inadequacy of parking provision would not be a matter that could be defended on appeal. It is considered that the parking provision is acceptable in accordance with local and national planning policy subject to conditions.

The storage of the bins within the yard areas of the apartments is considered to be acceptable along with the location of the bin dwell area to be used on bin collection days only.

In terms of highway safety the proposal is considered to be acceptable in accordance with Policies TR1 and TR8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Ecology
It has been noted that there is a presence of bats within the building. In view of this the applicant has submitted information as follows:

Bats in the locality utilise the County Council buildings on Smedley Street and the woodland, rock faces and caves behind Cavendish Road. The construction of the Band Hall building means that the internal temperature varies considerably and the building shakes in high winds. There is also a street light close to the building. In view of these points it is unlikely that bats would use the building as it is an unsuitable habitat. A volunteer bat worker qualified to give an opinion on such matters has reviewed the desk
top study and building construction and has carried out an inspection of the building, she has concluded that ‘no evidence that any bats are using the building and it is unlikely that bats are using the building’. An emergence survey has been conducted with no emergences observed.

Therefore despite the continued concerns of Derbyshire Wildlife Trust it is considered unlikely that bats are utilising this building. Notwithstanding this bats are a species protected under the terms of the Wildlife and Countryside Act 1981 and therefore any works carried out contrary to this act would be investigated by the Police. The applicant has been advised that a further survey is required to be carried out in regard to the presence of bats by a suitably qualified ecologist; this matter shall be updated at the committee.

Given the habitat on the site and given evidence of Slow Worms within the locality it is considered likely that Slow Worms will be present on the site. Given the isolated nature of the site Derbyshire Wildlife Trust require that a methodology regarding Slow Worms and mitigation measures be submitted via condition. Again it should be noted that the Wildlife and Countryside Act 1981 would also apply to the Slow Worms.

Subject to a condition and an appropriate bat survey being carried out and no presence being found, the proposal is considered to be acceptable in accordance with Policy NBE5 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Land Stability
Concerns have been raised regarding land stability as a result of the proposed engineering work and the safety of the highway whilst these works are ongoing. Whilst these matters are covered under building regulations, it is considered reasonable, given the nature of the development on this steep site, that a condition is imposed requiring the submission of constructional details along with a methodology for construction in order to ensure the building work has as minimal an impact upon the neighbouring residents as possible.

Conclusion
A similar application has previously been refused on this site for the following reason:- ‘The proposal is considered to be an overdevelopment of this constrained and sensitive site within the Matlock Bank Conservation Area. The building proposed by reason of its scale, massing and design will appear incongruous and oppressive in its context thereby harming the character and appearance of the Conservation Area and the amenity of surrounding residents’.

Whilst the changes to the scheme are modest in terms of size and scale the removal of the single storey element of the building and the reduction in width of the adjoining gable has resulted in an improved scheme in terms of parking and bin storage and a further reduction in the potential for overlooking and giving a visual gap at the point of the Lane accessed from Jackson Road.

Whilst the building will be a significant change to what is currently on site and the subsequent development is not intended to replicate the predominant local vernacular, it is considered that the overall design and appearance of the building is acceptable in this location and, notwithstanding the views expressed by the Conservation Advisory Forum, will enhance the character and appearance of the Conservation Area in terms of the
removal of the existing building and the erection of a replacement building in traditional materials with contemporary elements.

Due to the topography of the site and its proximity to neighbouring properties it is inevitable that the proposal will lead to some impact upon the amenities of neighbouring residents, it is considered that on balance the impact would not be so significant in this case that refusal is warranted. The parking provision is considered to be acceptable for the location.

In terms of paragraph 14 of the National Planning Policy Framework a balancing exercise needs to be carried out in considering whether any adverse impacts of development outweigh the benefits. The Council cannot currently demonstrate a 5 year housing supply and due to this the housing policies of the Adopted Derbyshire Dales Local Plan are for the purposes of this assessment out of date. The consequence of this is that there is a strong presumption in favour of sustainable development unless the adverse impacts of development significantly and demonstrably outweigh the benefits when weighed against the policies of the National Planning Policy Framework as a whole. In this case the application site is in a sustainable location for housing development close to the services and facilities of Matlock. Therefore despite the concerns raised regarding the scheme it is considered that any potential for harm for immediate neighbours is outweighed by the benefits of the proposal in terms of the supply of much needed housing and the previously explained from an officer perspective enhancement of the Conservation Area. It is therefore considered that on balance the proposed development is acceptable subject to detailed conditions and meets local and national planning policy requirements as any adverse impacts are not significantly and demonstrably greater than the benefits.

OFFICER RECOMMENDATION:
To grant planning permission subject to the following conditions:

1. Condition ST02a

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

3. Before any other operations are commenced (excluding Condition No 2 above), the existing access to Jackson Road shall be modified in accordance with application drawings No 1416.2-14, laid out, surfaced and maintained free from any impediment to its designated use.

4. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
   - Parking of vehicles of site operatives and visitors
   - routes for construction traffic
   - hours of operation
• method of prevention of debris being carried onto highway
• pedestrian and cyclist protection
• proposed temporary traffic restrictions
• arrangements for turning vehicles

5. No residential unit shall be occupied until space has been laid out within the site in accordance with drawing No 1416.2-14 for 4 No vehicles to be parked clear of the public highway. These parking spaces shall be retained throughout the life of the development free from any impediment to its designated use.

6. The proposed parking spaces off Jackson Road shall be no steeper than 1:15 from the nearside highway boundary

7. No dwelling shall be occupied until the proposed refuse bin dwell and collection areas have been provided as per the application drawings and retained thereafter free from any impediment to their designated use.

8. Prior to the commencement of development the following details shall be agreed in writing by the Local Planning Authority:
   ▪ A sample of stone to be used, both coursed stone and ashlar with details of where the stone work is proposed on the building, the method of construction including bed heights and lengths.
   ▪ 1:10 or 1:20 Details and sections of the fenestration including finished colour and the recess to the windows
   ▪ Details of the treatment of the obscure glazing to the whole building, which shall include the obscure glazing of the eastern side window to apartment no. 4 is obscured to 1.8m in height.
   ▪ A sample of roofing material detailing its source
   ▪ Details and samples of the surfacing materials
   ▪ Samples and details of the boundary walling including a 2m sample panel to be inspected on site and details of the coping stone which should be a half round stone.
   ▪ Details of all pipe work and guttering which should of a dark finish and metal construction and details of any utility boxes
   ▪ Details of the gates to the rear wall and the finished treatment and colour

Works shall be completed in accordance with the agreed details.

9. The obscure glazing agreed to the rear windows under condition 8 above shall be retained in perpetuity.

10. Prior to the commencement of development a scheme detailing window openings to the rear elevation of the building shall be submitted to and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the agreed details.

11. Prior to the commencement of development full constructional details including the impact of the development upon the adjacent highway and the foundations of the adjoining properties along with a management plan for the method of construction to minimise the impact upon neighbouring residents shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.
12. Prior to the commencement of development a detailed mitigation strategy shall be submitted by a suitably qualified ecologist regarding the presence on site of Slow Worms and shall be agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

Reasons:

1. Reason ST02a

2-7. In the interests of highway safety in accordance with Policies TR1 and TR8 and guidance contained within the National Planning Policy Framework.

8. To ensure an appropriate finished form of development suitable to the Conservation Area in accordance with Policies SF5, H9 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

9. In the interests of residential amenity in accordance with Policies SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

10. To protect the amenity of neighbouring residents in accordance with Policies SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

11. To ensure stability of the site and the adjacent highway in accordance with guidance contained within the National Planning Policy Framework.

12. In the interest of ensuring any protected species present on the site are suitably protected and any mitigation appropriately carried out in accordance with Policy NBE5 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Footnotes:

1. The Local Planning Authority have prior to and during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to design, bins storage areas and protected species.

2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council’s website: http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

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

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

5. 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.

6. This decision notice relates to the following documents:
   Proposed elevations 1416/2-01
   Proposed elevations 1416/2-02
   Proposed section 1416/2-03
   Proposed plan L1 1416/2-05
   Proposed plan L2 1416/2-06
   Site section 1416/2-07
   Sections compared 1416/2-08
   Proposed elevations 1416/2-09
   Proposed elevations 1416/2-10
   Proposed elevations 1416/2-11
   Existing elevations and plan 1416/2-12
   Existing elevations 1416/2-13
   Exposed elevation 1416/2-14
   Locations and block plan 1416.2-14
   Amended design and Access statement
15/00208/FUL

North Park Farm, Whitworth Road, Darley Dale, Derbyshire

Derbyshire Dales DC

Date: 03/07/2015

100019785

1:1,250
THE SITE AND SURROUNDINGS:
The application site is situated on open agricultural land to the south-east of Northwood and just off Whitworth Road. There is an existing access off Whitworth Road and a steep track leads down to a large building being used for a combination of agricultural and equestrian purposes. The land slopes down, away from the road and there is a substantial belt of tree planting alongside Whitworth Road and groups of trees in the wider area. A public footpath runs along the southern boundary.

THE APPLICATION:
• The proposal is for the formation of an outdoor horse training area and a separate area of hardstanding.
• Although the applicant refers to it as an arena, it must be clarified that this does not imply a large building or a big-top marquee. It is just an equestrian phrase used by the applicant to refer to a flat area of made up ground used to train horses.
• The horse training area will be positioned to the north-west of the existing building, using a cut-and-fill method to build it into the hillside. Its dimensions will be 25m by 40m. It will be enclosed by a post and rail fence with additional planting also proposed.
• Further supporting information / clarification has also been submitted by the applicant. This confirms that between 5 and 8 horses have been kept on the land over the past 20 years. There will be no change to the amount of vehicles using the site as the amount of horses will remain the same. The application is for a small training area – 25m by 40m and not a full size arena which is 20m by 60m. There will be no floodlights, it is for personal training and not for livery use or to run any events as it is too small and no additional parking is being provided. It will not be visible from any of the nearby houses due to the trees and hedges. Horse manure is stored in the same area as the cattle manure and then spread on the land as manure.
• An area of hardstanding is also positioned to the south of the existing agricultural building. It measures 20m by 26m and is already in place. This area historically stood in water as it was an underground storage tank which was collapsing and unsafe.
• Although not directly related to the application, the road access has also been modified.

RELEVANT HISTORY:
12/00033/AGR    Agricultural Prior Notification – Extension to agricultural storage building.     Granted
11/00294/AGR    Agricultural Prior Notification – Erection of agricultural storage building.     Granted
02/08/0624     Erection of two storey dwelling.     Refused
01/01/0038 Extension of barn to provide building for stabling and breeding of horses Granted

0199/0045 Construction agricultural building, yard area, drive and vehicular access. Refused

WED/95/17 Erection of barn for storage of hay and straw. Granted

CONSULTATIONS:
Local Highway Authority:
No objection, but would not wish to see significant increases in the level of traffic using it.

Parish Council:
No objection to the application, but are aware of objections being raised by nearby residents and ask that these be taken into consideration.

REPRESENTATIONS:
Darley Dale Town Council: Further clarification required – insufficient information to answer Councillor’s Questions. Works already appear to have started. A formal letter will be sent.

12 other representations which raise the following points:
• Object due to the landscape impact that the works will have.
• The trees are deciduous and offer only partial, seasonal cover.
• Planning rules have previously been flouted – buildings and heavy machinery. This will allow far more inappropriate development to occur.
• The horse training arena implies an equestrian, commercial operation. Concerned about the increased activity that this will imply – activities, staff, visitors, events and competitions.
• Traffic concerns.
• Light pollution.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF4 Development In The Countryside
NBE6 Trees And Woodlands
NBE8 Landscape Character
TR1 Access Requirements And The Impact Of New Development
L11 Equestrian Development

National Planning Policy Framework (NPPF)
Chapter 3 Supporting a prosperous rural economy.

ISSUES:
The main issues to assess are the impact that the proposed horse training area will have on the character and appearance of the surrounding countryside and landscape.
Currently, it appears as a large, open field and between 5 and 8 horses have been kept here for the past 20 years. Planning permission has also previously been granted for stables, so it is clearly an established equestrian set-up.

Local Plan Policy L11 – Equestrian Development, states that planning permission will be granted for equestrian development, provided that it does not have an adverse impact on the character or appearance of its surroundings and the immediate wider landscape; provided that it does not create unacceptable problems in relation to neighbouring uses; and provided that it is appropriately related to the existing bridleway network.

Whilst it is not close to a bridleway network, equestrian activities have been taking place in this large field over the past 20 years. The proposed horse training area will be positioned close to the belt of mature trees. Viewed in this context and against this backdrop, the proposed horse training area is not considered to appear prominent or visually intrusive in the wider landscape. It is a modest scheme and is not therefore considered to create any problems to neighbouring uses and is therefore considered to be fully in compliance with this Adopted Local Plan Policy.

There is a small group of protected trees to the west of the existing building. Concerns have been raised about the potential impact that the proposed horse training area could have on these, particularly on the root protection zone during the construction process. However, it is considered that these can be protected by Condition.

Concerns have also been raised about the potential intensification of the equestrian activities on this site. However, the applicant has confirmed that the site is impractical to be used as a livery or for other larger scale equestrian activities. There is no intention for floodlights or to open it up on a commercial basis. The limited size (25m by 40m) and location does not lend itself to a larger, commercial scale horse training arena which would require a much larger, competition standard arena (20m by 60m) and associated facilities. It will therefore continue to be used by the applicant on a personal basis.

The Local Highway Authority have noted that Whitworth Road is a non-classified road, that the development will be served by the existing access and that there is ample parking and turning space within the site. Based on the information provided, they consider it unlikely that the proposal would result in any significant increase in traffic movements. Given the limitations of the existing access, the Local Highway Authority would not wish to see a significant increase in the level of traffic using it without further improvement. However, the Local Highway Authority raise no objection to the current scheme.

The area of hardstanding is next to the existing agricultural building. It is not considered to be very visible or prominent from public view and is not considered to have an adverse impact on the surrounding landscape.

The proposal is not considered to significantly change the nature of the existing activity and it is considered to have a negligible impact on the character and appearance of the landscape.

The objections have been taken into consideration, but they are not considered to provide sufficient grounds to oppose the application.
OFFICER RECOMMENDATION:
Planning Permission be granted conditionally.

1. **Condition ST02a:** Time Limit on Full.

2. No development shall commence, nor shall any materials or machinery be brought onto the site, until a 2m high fence of Weldmesh securely attached to scaffolding poles inserted into the ground has been erected in a continuous length, one meter beyond the crown spread of the group of protected trees to the south of the proposed horse training area (or other such fencing as may be agreed in writing with the Local Planning Authority). The fencing must be erected prior to the commencement of development and remain throughout the period of construction and no materials or equipment shall be stored, no rubbish dumped, no fires lit or any excavations or changes in level take place within the fenced area.

3. The horse training area hereby approved shall be used by the applicant only for the exercise of their horses. The training area shall not be utilised by visitors or operated as a commercial facility.

Reasons:

1. **Reason ST02a.**

2. To protect the trees during the construction period and in the interests of visual amenity in accordance with Policies SF4, NBE6 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005).

3. For the avoidance of doubt, in the interests of Highway Safety and in accordance with Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005).

Note to applicant:

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, 2, 215 / 01 and 215 / 02, received by the Council on 14th April 2015.

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 its context within the surrounding area.
15/00245/OUT

Land Off Nottingham Road, Tansley, Derbyshire

Derbyshire Dales DC

Date: 03/07/2015

100019785

Crown Copyright and database rights (2015) Ordnance Survey (100019785)

Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 781100,
website: www.derbyshiredales.gov.uk
RESIDENTIAL DEVELOPMENT OF UP TO 10 DWELLINGS (OUTLINE) AT LAND OFF NOTTINGHAM ROAD, TANSLEY FOR MRS. S. WOOD

Parish Council: Tansley  Date of receipt: 07.04.15
Application type: Outline  Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:
The site is a greenfield site of some 0.4ha set between Nottingham Road (A615) and Neil Thompson’s Nursery. The ground initially drops away from the road, behind a stone boundary wall, before rising up towards the Nursery. To the west is a timber merchant’s stockyard and to the east are open fields.

The site is in a prominent position on the eastern approaches to the village, although it is some way removed from the centre of Tansley in an area where the built development is breaking up at the edge of the village. There is exiting, small scale residential development of detached properties across the road on its northern side.

THE APPLICATION:
Outline planning permission is sought for the erection of up to 10 dwellings on an area of land set some 20m back from Nottingham Road. The applicant proposes that the area between the application site and the road would be planted with trees; this area is detailed as being outside of the application site but is land owned by the applicant.

In terms of the nature of the development, the applicant states that this would be predominantly two-storey (ridge heights below 6.5m), detached housing of traditional form built of natural gritstone with dark slate or tiled roofs. It is proposed that they would be 3 or 4 bedroomed properties and there would be turning space for vehicles close to the end of the proposed access.

It is proposed that the site would be accessed from the existing access to Nottingham Road, to the west of the application site, which currently serves Neil Thompson’s Nursery to the south of the application site. This would be improved to adoptable standard. The applicant has submitted details of visibility splays but advised that access through the site would be a reserved matter. Two parking spaces are proposed for each dwelling.

The applicant advises that, as the development is for 10 dwellings, that there is no requirement to provide affordable housing on the site. However, if the application is approved, the applicant advises that consideration will be given to a phased development of additional land to the south, which would incorporate affordable housing.

In terms of justification of the proposals, the applicant refers to the site being on the edge of the Settlement Framework boundary for Tansley and, given the District Council cannot demonstrate available sites to meet its housing land supply requirements, that development of the site will assist in addressing the shortfall.

RELEVANT HISTORY:
There have been several planning applications with respect to the Nursery to the south of the application site.
CONSULTATIONS:
Parish Council – Strongly object:
- outside settlement area on greenfield site and outside of 30mph speed limit
- no footways on the side of the development site and no possibility to create such
- footway adjacent to Thatched Cottage is narrow (800mm)
- poor and dangerous links with main village amenities
- in prominent position in gateway to Tansley, not in keeping with existing pattern of development
- development would spread the village too far out
- development would be pre-empting the planning process
- large sough that links the stream
- nearest play area is at Thatchers Croft and would have to cross A615 twice to get there
- request site visit.

Environment Agency – Comment:
- refer to Standing Advice.

Local Highway Authority – Comment:
- visibility splays require use of third party land to the west
- query accuracy of submitted drawings
- suggest speed readings are undertaken in order to clarify extent of visibility required
- may wish to consider an entirely different access arrangement
- applicant should consider improvements to access bus stops.

DCC Public Rights of Way – No objection - Comment:
- no recorded rights of way across the site
- no applications have been received under Section 53 of the Wildlife and Countryside Act 1981.

Peak and Northern Footpaths Association – No comments.

Derbyshire Dales Group of Ramblers – No objection.

REPRESENTATIONS:
Matlock Civic Association – Object:
- outside of Tansley settlement boundary and, as such, should be resisted

15 letters of representation from local residents and a Derbyshire resident. The comments can be summarised as follows:

- lack of Local Plan makes the village vulnerable
- opportunist application taking advantage of Government drive to make local council’s meet their quota of building plots – has led to a large number of unsuitable plots being put forward
- disproportionate level of development proposed for Tansley – destabilising and changing character of the village forever
- plans are the beginning for a vast estate
- unsustainable
- greenfield site – use brown field sites up first
- would seriously damage the character and appearance of the surrounding area
- detrimental impact on local landscape and encroaching into beautiful vista
- village sprawl
- existing housing on north side of A615 is very low density, mainly large houses on large plots in keeping with the character of the rural area
- proposed development would constitute cramming and inconsistent with paragraph 58 of the NPPF
- existing Settlement Framework boundary some considerable distance to the west of the site
- does not meet with Policies SF4 and H4 of the Adopted Local Plan
- light pollution in the area
- a copse of trees would have to be felled to accommodate housing
- would stand alone outside village perimeter and set a dangerous precedent
- screening along Nottingham Road will not provide a screen of site from east, west or south and from higher land
- village has no facilities – no shops or post office
- disconnected from village infrastructure
- bus service runs only every two hours between 8am and 6pm with no weekend service
- highway safety concerns
- A615 is a fast and busy road
- outside 30mph zone
- safety concerns off access and dangerous to cross
- pavement to village is narrow and unsuitable for family use
- village amenities are on opposite side of A615
- site is a well-established wetland area which needs to be investigated
- land subject to flash flooding and unsuitable for development
- very old sough, possibly of historic value, runs through the site
- disturbing the watercourse could have further reaching consequences
- impact on nature and birds
- agree with the objections of Matlock Civic Association

POLICIES:

1. Adopted Local Plan (2005)
   SF4 Development In The Countryside
   SF5 Design and Appearance of Development
   H4 Housing Development Outside Settlement Frameworks
   H9 Design and Appearance of New Housing
   H11 Affordable Housing Within The Settlement Frameworks Of Other Settlements
   H12 Alternative Provision For Affordable Housing Outside Settlement Frameworks
   H13 Affordable Housing Exceptional Sites In Rural Areas
   NBE3 Other Sites Of Importance For Nature Conservation
   NBE4 Protecting Features Or Areas Of Importance To Wild Flora And Fauna
   NBE6 Trees and Woodlands
   NBE8 Landscape Character
   NBE26 Landscape Design in Association with New Development
   L6 Outdoor Playing Space in New Housing Developments
   TR1 Access Requirements and the Impact of New Development
   TR8 Parking Requirements for New Development

2. National Planning Policy Framework

3. National Planning Practice Guidance

ISSUES:

1. Introduction

The site is an open field set some 180m from the Settlement Framework boundary for Tansley along Nottingham Road (some 120m from the nearest properties set back from Nottingham Road on Thatchers Lane). Between the site and the Settlement Framework boundary is the open land at Ivy House Farm and Gregory’s wood storage yard on the south of Nottingham Road. To the north of Nottingham Road, the boundary is further away, being separated from the site with fields extending from Holly Lane. There is sporadic development to the north of Nottingham Road opposite the application site. In this respect, the site is clearly separated from the built up area of the settlement and evidently within open countryside.

2. Policy

Having set the context of the application site, this planning application needs to be considered in the context of the most up to date planning policy. The National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and Paragraph 11 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. It advises that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The Development Plan includes the Adopted Derbyshire Dales Local Plan (2005).

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

Given the above, Paragraph 49 of the NPPF states that housing applications should be considered in the context of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. Therefore, Policy H4 of the Adopted Local Plan (2005) can be attributed no weight given that this seeks to restrict residential development, except in exceptional circumstances such as for affordable housing or essential rural worker’s dwellings, where such development is outside of Settlement Framework boundaries. This is also the case with regard to Policy SF4 as this limits the housing that can be allowed in the countryside to specific classes and does not envisage meeting needs outside the Settlement Framework.

Therefore, the District Council has to have particular regard to Paragraph 14 of the NPPF in the decision making process. This states that where the Local Plan is absent on this matter (as the existing Local Plan now is given the lack of identified housing land supply), regard has to be given primarily to the National Planning Policy Framework. Paragraph 14 further advises that there is a presumption for granting planning permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole. As such, there is a
presumption in favour of the development unless other material considerations determine otherwise. One such matter is that of sustainability which is the ‘Golden Thread’ running through government guidance contained in the NPPF which is assessed below.

However, there are several Local Plan Policies that remain consistent with the NPPF. In considering the site’s development potential, regard has to be given to Policies SF5 and H9 of the Adopted Local Plan (2005) with regard to the character and appearance of the development.

It is necessary to consider whether there are any environmental constraints that would necessitate consideration. Policies NBE3, NBE4 and NBE5 advise that where the proposals may have an impact on ecology, planning permission will only be granted if it can be demonstrated that there is an overriding need for the development. Policy NBE6 seeks to protect trees from development that may impact directly or indirectly upon them and Policy NBE8 advises that planning permission will only be granted for development that protects and enhances the character, appearance and local distinctiveness of the landscape.

In order for the development of the site to be acceptable, it is also necessary to determine whether the site can be served by a safe and secure access, and therefore be able to satisfy Policy TR1, and provide adequate off-street parking to comply with Policy TR8. Developments of such a scale also need to provide for affordable housing provision, given the aims of Policy H11, and open space and children’s play space within the site in accordance with Policy L6.

The matters detailed above are addressed as follows.

3. **Sustainability**
The site is on the fringe of Tansley and, in the context of the Council having to look outside Settlement Framework boundaries to meet its housing needs, this site has reasonably close access to shops, employment and services such that it can be considered locationally sustainable. The development itself would provide for economic benefit with employment in the construction process and would assist with sustaining local services. In this respect, the proposed development would meet with the requirements for social and economic sustainability.

However, the settlement boundary of Tansley is clearly defined and the application site is well beyond the main built form of the village. In this respect, the development is proposed on a greenfield site and will have an impact on environmental sustainability which would include the character and appearance of the landscape. This also includes considerations of matters such as drainage and wildlife.

The development of the site would also have the potential to impact the amenity of nearby residents and highway safety and, therefore, these elements of social sustainability require consideration. In addition, the proposed density of development is rather low and the site could physically contain more dwellinghouses to off-set the need for further greenfield site development and also make a contribution to affordable housing provision. These matters are addressed below.
4. **Impact on the Character and Appearance of the Open Countryside**

The Adopted Local Plan (2005) defines Settlement Framework boundaries as areas where new development could be located which are best able to serve the aims of achieving sustainable development, and establish the extent of the built framework and wider physical confines of the settlement. The application site is some distance outside of this character area which clearly defines the settlement.

The proposal indicates that the group of up to 10 houses will be set some way back from the road, on higher ground, behind a belt of tree planting. It is considered that this arrangement will have little in common with the existing nature of the settlement pattern in this part of the village and, being in a relatively elevated position, will have an adverse impact on local landscape character, with development extending into the countryside.

The form of detached dwellinghouses would introduce a suburban character and appearance to the site that is not reflective of the more dispersed development that exists up to this point when exiting the village. To allow such a form of concentrated development would also make it difficult to resist elements of infill development between the site and the settlement, given that the scale of the proposed development relates more in its character and appearance to the main part of the village rather than the sporadic development that extends from it and within which the application site is situated. This will fundamentally erode the setting of the village and lead to a significant encroachment into the open countryside.

5. **Impact on Neighbour’s Amenity**

There are residential properties that overlook the site across Nottingham Road. However, reasonable separation distances would be achieved with the number of dwellings proposed to not impact significantly upon the light, outlook and privacy of the neighbours to an extent that would reasonably justify refusal of outline planning permission.

6. **Highway Matters**

The Local Highway Authority has considered the proposals and, despite the applicant submitting more detailed drawings, queries the accuracy of submitted drawings. In addition, the visibility splays require a view over third party land to the west and there is no evidence submitted, as with a previous application for development of the Nursery, to demonstrate that these could be safeguarded.

In this respect, the Local Highway Authority suggest speed readings are undertaken in order to clarify extent of visibility required and suggest that the applicant may wish to consider an entirely different access arrangement; this would need a revised application site. As such, it is considered reasonable to refuse planning permission on the grounds of inadequate details being submitted to demonstrate that there are adequate visibility splays to meet the requirements of highway safety.

In addition, the Local Highway Authority suggests the applicant consider improvements to access bus stops given the nature of the restrictive access to such; this could be addressed with agreement to a Condition if permission were to be granted.
7. **Impact on Ecology**

Derbyshire Wildlife Trust (DWT) has assessed the proposals and advise that, in the absence of ecological information being submitted, it is not possible to determine the likely ecological impacts that the development may have on features of ecological interest. From briefly reviewing their records, DWT are aware of grasslands of ecological interest in the local area, including one non-statutory Local Wildlife Site. In addition, DWT hold a number of badger sett records for the local area. As such, DWT advise that the application should not be determined until an ecological survey has been completed that identifies the habitats that are present on site, and assesses and surveys for the presence of protected species such as nesting birds, foraging bats, reptiles, amphibians and badgers.

8. **Affordable Housing Provision**

Had the site been within the Settlement Framework boundary for Tansley, an affordable housing provision would be required based on 33% of dwellings being affordable dwellings, in accordance with Policy H11. The applicants are considering the site to be sustainable in the context of Tansley in their justification for development. Therefore, it is considered that the aims of Policy H11 should equally apply in this context.

It is appreciated that latest Government guidance, subject to challenge with a Judicial Review, provides no requirement for dwellinghouses on sites of less than ten dwellings. However, it is considered that the density of development on the site, or even a slightly larger site area being proposed within the applicant’s ownership, could have triggered such a requirement for affordable housing provision. In this regard, the applicant has failed to comply with the requirements for affordable housing provision as part of the proposed development.

9. **Drainage**

There is clearly a watercourse crossing the site and this could be affected by the development. However, this is a matter that would need to be addressed with any reserved matters application to ensure its integrity is maintained. With regard to surface water drainage, the Environment Agency has not raised any site specific concerns. This would be a matter for Building Regulations to ensure that the development can be SuDS compliant. Nevertheless, it is considered reasonable to attach a condition to any grant of planning permission with regards to establishing the drainage of the site, having regard to existing site conditions.

10. **Play Space and Open Space Provision**

Under the terms of Policy L6 of the Adopted Local Plan, sites of 0.4 hectares or greater are required to make provision for outdoor play space. The application site, whilst above this threshold, is modest in size such that no meaningful open space or children’s play area provision could be provided on the site. In this respect, it is considered reasonable to require a financial contribution to off-site play provision within Tansley that would still benefit the residents of the site. Such a payment would be expected to be £500 per dwellinghouse.

11. **Conclusion**

Having regard to the provisions contained in Paragraph 14 of the NPPF, there is a requirement to grant planning permission where a development plan is absent, silent or where relevant policies are out of date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
In this respect, it is considered that the proposed development will result in the loss of an attractive green field site on the approach to Tansley. The residential development of this field would also be an intrusion into the countryside that will have an adverse impact upon the character and appearance of the landscape and the setting of the settlement. To allow such a form of development would also make it difficult to resist elements of infill development between the site and the settlement, given that the scale of development relates more in its character and appearance to the main part of the village.

As the development of the site would essentially lead to an extension Settlement Framework boundary for Tansley, an affordable housing provision would be required based on 33% of dwellings being affordable dwellings in accordance with Policy H11 of the Adopted Derbyshire Dales Local Plan (2005). In this regard, as the applicant has failed to comply with the requirements for affordable housing provision as part of the proposed development. In addition, in the absence of ecological information being submitted with the application, the applicant has failed to demonstrate that the development would not impact on ecological interests.

Therefore, in assessing the application against Paragraph 14 of the NPPF, the adverse impacts of the development are considered to significantly and demonstrably outweigh the benefits of the development in meeting the District Council's housing land supply requirements and it is recommended that planning permission be refused.

OFFICER RECOMMENDATION:
Planning permission be refused for the following reasons:

1. The residential development of this field would be an intrusion into the countryside that will have an adverse impact upon the character and appearance of the landscape and the setting of the settlement of Tansley contrary to Policies SF5 and NBE8 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained within the National Planning Policy Framework.

2. As the development of the site would essentially lead to an extension of the Settlement Framework boundary for Tansley, affordable housing provision would be required on a site of this scale. As the applicant has failed to make such provision, the development is inherently contrary to the aims of Policy H11 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained in the National Planning Policy Framework.

3. In the absence of ecological information being submitted with the application, it has not been demonstrated that the development would not adversely impact on ecological interests and as such the proposal is contrary to Policies NBE3, NBE4 and NBE5 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained within the National Planning Policy Framework.

4. The access visibility splays required for the development will require a view over third party land to the west and there is no evidence submitted to demonstrate that these could be safeguarded. As such, the proposals fail to address this matter of highway safety and the development would lead to dangerous manoeuvers in the public highway detrimental to highway safety. As such, the proposal fails to comply to Policy TR1 of the Adopted Derbyshire Dales Local Plan (2005) and government guidance contained within the National Planning Policy Framework.
NOTES TO APPLICANT:

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

This decision notice relates to the following documents:

Site Location Plan 1:2500 received on 8th April 2015
Drawing of Proposed Access Arrangement 1:500 received on 22nd April 2015
Additional Drawing of Proposed Access Arrangement 1:200 received on 8th June 2015
Design and Access Statement received on 8th April 2015.
15/00276/OUT

Land To The West Of Field House, Starth Lane, Tansley, Derbyshire

Derbyshire Dales DC

Date: 03/07/2015

100019785
THE SITE AND SURROUNDINGS:
The application relates to a steeply sloping field to the south of Tansley. There is a field gate to the southern tip of the site giving access from Starth Lane. The site is within the settled valley pastures landscape type of the dark peak landscape character area. The site is in an elevated position close to a local skyline adjacent to existing residential development to the east. A footpath runs along the western edge of the site. A fence forms the boundary to the north and stone walling to the east.

THE APPLICATION:
Outline planning permission is sought with all matters reserved to erect a single dwelling on the site with indicative access shown to the southern tip of the site onto Starth Lane. Whilst access has been noted as a reserved matter it is difficult to see where else access could be gained from for this particular plot of land. An indicative site plan has been submitted showing the dwelling sited centrally on the plot with landscaping being provided to the boundary along the public footpath.

RELEVANT HISTORY:
Wider site including the existing housing to the north of the site:
WED/480/284
Refused for the following reasons:
1. Adverse effect on the appearance of the village and the rural character of the locality
2. The development would draw additional traffic onto the narrow lanes to the detriment of highway safety
3. Acceptance of the proposal would set a precedent for additional development on the north side of the road through the village. Any new substantial development should be to the north of the A615.

This outline application was allowed on appeal.

Wider site
WED/1177/626 residential development (outline) – Refused for the following reasons:
1. It is the policy of the Local Planning Authority to ensure that as far as possible new residential development to take place on the northern side of the Nottingham Road. It would be undesirable for the village to expand on both sides of a principle road.
2. The development of this elevated site would increase residential intrusion into an area which forms an important open backcloth to the village
3. Adequate housing land has been approved elsewhere to meet needs
4. Minimum standards for new highways could not be met.

CONSULTATIONS:
Parish Council – Object:
- Unmade track to the development which then joins Thatchers Lane and then the A615, the sightlines onto the A615 are very poor and increase in traffic would be a danger to highway safety.
• The site is outside the settlement on green field land and adjacent to two footpaths and shoe horned into the site.
• This is a prominent position that will overlook existing dwellings, spoil landscape character and making the area too densely populated
• Due to topography there are concerns regarding landslip and surface water flooding
• Concerns relating to linking into existing services
• Request committee decision with site visit rather than determination under delegated powers

Local Highway Authority – Starth Lane is a private lane with limited carriageway width and no separate pedestrian margin. It carries public footpath No 7 which links to public footpath No 8 adjacent to where the applicant intends on accessing this site. Whilst access to the public highway isn’t being shown within the red outline plan, I trust your Authority will check if the applicant has vehicular access rights to the site before granting any permissions.

However, whilst Starth Lane has its deficiencies, there are no grounds for a highway objection to this application for a single dwelling. Vehicle speeds and volumes on the lane are extremely low and it currently serves 8 dwellings with there being no vehicular accidents reported in the last 3 years (including pedestrians using the nearby public footpaths). The footpath adjacent to the application site is to remain unchanged and there seems to be adequate space on the indicative layout to enable all vehicles (including delivery vehicles) to enter the site, turn and exit in a forward gear.

Recommend conditions and footnotes

DCC Rights of Way – No objection subject to advisory notes

Derbyshire Dales Ramblers Group – no objection providing that the footpath which runs alongside the development is not affected in any way either during or after construction. A 2m width should be maintained.

Peak and Northern Footpaths - No objection subject to the full width of footpath 8 Tansley and footpath 7 Tansley remains open and unobstructed at all times any new planting along the boundary of the site should not be allowed to grow over footpath 8.

REPRESENTATIONS:
11 letters of representation have been received raising the following concerns:

Visual impact
Concern over density and overdevelopment of the site
Adverse impact upon the character of the area
It would change the character of the hillside and obscure views of higher ground
The proposed siting is ill considered this is green field land
Development here would diminish the striking view into the centre of Tansley and be prominent from angles within the village
Due to the steep slope the development would require significant engineering operations
The field is visually prominent within the locality
The beautiful panoramic view over the village would be lost
Amenity
Will be extremely close to our property
Adverse impact upon the amenity of neighbours
Unacceptable overlooking

Footpaths
The footpaths are used by locals and tourists for leisure purposes

Highways
Starth Lane is an unmade road with poor surface and is fragile
The access is steep with no turning space
There is a blind junction where Starth Lane meets Thatchers Lane
Thatcher lane cannot support any more parking
Starth Lane is not suitable for further traffic
There is no turning space on Starth Lane
The NPPF refers to adequate infrastructure being available the infrastructure in this location is inadequate
Cannot see provision for noise reduction or maintenance of road during construction
Will Starth Lane have to become an adopted highway
Delivery drivers have to walk along the lane and emergency vehicles have had to carry patients to vehicles due to the status of the lane
Starth Lane was widened by a resident some years ago, therefore a large proportion of the lane does not belong to the applicant, and right of way over this land will not be given
In the winter cars cannot access the top of the lane

Other
Residents should have a say in where new housing should be
The site is away from services and on the other side of the A615 with no safe crossing point and poor bus service
The development is not sustainable
The proposal will disrupt wildlife in the area, including foxes, badgers, hedgehogs and birds
If allowed this will allow further development of the field
Concerns regarding how waste water and sewage will be taken from the site
Concerns regarding land stability
There is no mention of underground services, should not be allowed to use cesspits or soakaways
No information regarding how the development would affect water run-off from the site
An Inspector recently considered a scheme to the south of the A615 and ruled against development, many similar arguments apply in this case
Contrary to paragraph 59 of the NPPF
Concerns regarding notification to neighbours and other owners of the lane

POLICIES:
Adopted Local Plan (2005)
SF4: Development In The Countryside
SF5: Design And Appearance of Development
H4: Housing Development Outside Settlement Framework Boundaries
NBE5: Development Affecting Species Protected By Law Or Are Nationally Rare
NBE8: Landscape Character
NBE26: Landscape Design In Association With New Development
TR1: Access Requirements And The Impact Of New Development
ISSUES:
The issues for consideration are the principle of residential development in this location along with the impacts upon: landscape character, amenity, highway safety, ecology and land stability.

Principle
Applications for planning permission should be determined in accordance with the adopted policies of the Local Plan unless material considerations indicate otherwise.

In July 2014 the Draft Derbyshire Dales Local Plan was submitted for examination in public. The Inspector at the examination decided that the proposed housing numbers did not meet the Objectively Assessed Need and consequently the Draft Local Plan was withdrawn from examination. Based on the Inspectors observations about the quantity of housing need, the Council cannot currently demonstrate a 5 year housing land supply. On this basis in accordance with paragraph 49 of the NPPF, the housing policies of the Adopted Derbyshire Dales Local Plan are considered out of date.

Therefore development in these circumstances has to be considered in accordance with paragraph 14 of the National Planning Policy Framework which notes that where the relevant policies of the development plan are out of date Local Planning Authorities should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework taken as a whole.

In work carried out on sustainability in formulating the Draft Local Plan Tansley was considered an area suitable for further expansion as a larger village close to Matlock with a school, village hall, public houses and public transport provision. Therefore development in this location would be considered generally in accordance with the principles of sustainable development in that the site is within walking distance of the services, facilities and public transport provision of Tansley.

There are three strands to sustainability which need to be assessed, the economic, social and environmental roles. In this case the economic role is fulfilled by creating additional housing in a sustainable location to meet the existing housing need. The social role is partly met in that this would provide accommodation to meet the current housing need, although the impact upon the amenity of neighbouring residents has to be considered in more detail. In terms of the environmental role further consideration is needed as to whether this location is acceptable in terms of the impact upon the natural and built environment.

Landscape Character
The village of Tansley tends to have built development located away from higher ground with development keeping close to the lower slopes thereby allowing the green fields at the higher ground level to enclose the settlement. Whilst there is development on high ground to the east of the site it is not considered that this development should set a precedent for further encroachment into the green fields at higher ground level on this hillside. The erection of a dwelling on this elevated site will result in a prominent form of
development that will be harmful to the character and appearance of the rural landscape and setting of the village of Tansley contrary to policy NBE8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Amenity
The erection of a dwelling on this site due to the steep slope would be likely to have some adverse impact upon the amenity of neighbouring residents. However it is considered that any adverse impact could be sufficiently mitigated against with appropriate planting along the northern and western boundaries of the site. The impact upon amenity therefore is not considered to be such that refusal on these grounds would be warranted. In terms of the impact upon amenity of neighbouring residents the proposal is considered to be acceptable in accordance with policy SF5 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Highway Safety
Although the access along Starth Lane is narrow and an unmade road the Highway Authority have raised no concerns with regard to development on this site being accessed via Starth Lane. Whilst there are outstanding ownership issues regarding the lane these are not matters that can be resolved through the determination of this planning application. Whilst access is not a matter for determination at this time as it is a reserved matter, should access be gained via Starth Lane this would not lead to a highway objection in this case.

Ecology
Concerns have been raised by local residents that there are protected species on the site and make particular reference to badgers. In this case the applicant has not provided any information or survey regarding the potential for the presence of protected species on the site. As the applicant has failed to demonstrate that the development would cause no harm to protected species or that mitigation measures could be put in place the proposal fails to meet the requirements of Policy NBE5 of the Adopted Derbyshire Dales Local Plan and guidance contained with the National Planning Policy Framework.

Land Stability
Given the steep nature of the application site it is likely that any development on the site would be subject to significant engineering works. Whilst there is no evidence to suggest that such works will cause instability on the land or will lead to drainage issues within the locality it is considered that should the proposal be considered appropriate then conditions requiring professional reports on such matters could be imposed. The issue of the potential for the instability of the land would therefore not be a matter that would warrant refusal of planning permission.

Conclusion
Whilst the development is considered to be within a sustainable location, consideration has to be given in carrying out the balancing exercise as to whether the development will cause significant and demonstrable harm which outweigh its benefits when assessed against the policies in the National Planning Policy Framework taken as a whole.

In this case the erection of a dwelling on this elevated site will result in a prominent form of development that will be harmful to the character and appearance of the rural landscape and setting of the village of Tansley contrary to policy NBE8 of the Adopted Derbyshire Dales Local Plan.
The core planning principles of the NPPPF are set out in paragraph 17. One of these core principles notes that ‘planning should take account of the different roles and character of different area, promoting the vitality of our main urban areas, protecting greenbelts around them, recognising the intrinsic character and beauty of the countryside’, the prominent elevated position of the proposed dwelling is considered harmful to the character of the surrounding countryside. The harm caused to the character and appearance of the countryside weighs heavily against the development in the planning balance.

In addition the applicant has failed to demonstrate that the development will not have any adverse impact upon ecology and therefore the proposal fails to meet the requirements of Policy NBE5 and guidance contained within the National Planning Policy Framework. The harm identified that would result to the character of the rural landscape and the potential harm to ecology is in this instance considered to significantly and demonstrably outweigh the argument in favour of developing this sustainably located housing site.

OFFICER RECOMMENDATION:
To refuse planning permission subject to the following reasons:

1. The erection of a dwelling on this elevated site will result in a prominent form of development that will be harmful to the character and appearance of the rural landscape and setting of the village of Tansley contrary to policy NBE8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

2. The application does not include sufficient information in relation to ecology. In the absence of such information the development has the potential to harm protected species present on the site and as such the proposal fails to meet the requirements of Policy NBE5 of the Adopted Derbyshire Dales Local Plan and guidance contained with the National Planning Policy Framework.

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

This decision notice relates to the following documents:
Amended site plan received 05.06.15
Supporting statement received 23.04.15
15/00305/OUT

Former Harveydale Quarry, Dale Road, Matlock, Derbyshire
15/00305/OUT RESIDENTIAL DEVELOPMENT OF UP TO 20 DWELLINGS (OUTLINE) AT FORMER HARVEY DALE QUARRY, DALE ROAD, MATLOCK FOR ERNEST V. WADDINGTON LTD.

Town Council: Matlock Date of receipt: 30.04.15
Application type: Outline Case Officer: Mr. G. Griffiths

THE SITE AND SURROUNDINGS:
The site is a former quarry on the southern side of Matlock on the western side of Dale Road with access directly off the A6. Views into the quarry are effectively screened by the landform and existing trees in views from the west and by existing development and trees in views from all other directions.

Part of the quarry is already developed with offices leased to Derbyshire County Council and a new residential development fronting the A6. The area proposed for development is the southern part of the quarry immediately to the west and above the new housing development described above and measures some 1.1ha in area.

The quarry is included on the Historic Environment Record for the limestone quarry and a lime kiln. It is designated as a Regionally Important Geological/ Geomorphological Site as a quarry exposure of Cawdor limestone and the presence of brachiopods and crinoids. There is a Site of Special Scientific Interest designated at Masson Hill a little way to the south west.

The eastern margins of the site are included in the Matlock Dale Conservation Area. The site is also designated as an employment site in the adopted Derbyshire Dales Local Plan (2005) and within the Settlement Framework Boundary of Matlock.

THE APPLICATION:
Outline planning permission is sought for the erection of up to 20 dwellings with associated access with all other matters reserved. The applicant has submitted an illustrative layout plan and the following documents:

- Design and Access Statement
- Flood Risk Assessment
- Transport Statement
- Bat Survey
- Activity Survey for Bats and Birds
- Extended Phase 1 Survey Report
- Geological Statement
- Representation to the Local Plan

The applicant proposes a mix of two storey, two, three, four and five bedrooomed detached, semi-detached and short terrace dwellinghouses located off a central access road off the A6.

RELEVANT HISTORY:
14/00148/OUT 14 dwellings and associated access (outline) – Refused for reasons of the development being too low in density, with no provision of affordable housing, and lack of details regarding the securing of the quarry face and to protect its RIGS designation.
CONSULTATIONS:
Matlock Town Council – Comment:
- welcomes use of this brown field site
- applicant should be encouraged to retain as many trees as possible throughout the site
- need to address the Japanese Knotweed problem
- felt that there would be some justification for moving of the 30mph speed limit should the development take place
- consideration be given to including a small open space in the proposal.

Matlock Bath Parish Council – Welcome the development.

Local Highway Authority – Awaiting comments on revised access.

DCC Public Rights of Way – No comment.

Peak and Northern Footpaths Association – No objection but ask for a contribution to improve Footpath 19 Matlock.

Environment Agency – No objection subject to conditions on contamination remediation strategies and no infiltration of surface drainage water.

DCC Planning Policy – Comment:
- need for affordable housing and the level is a matter to be determined by District Council
- request access provided to high speed broadband and houses built to Lifetime Homes standards
- existing schools would have adequate capacity but advise DDDC to take a strategic view and account for the entirety of development proposed in the area
- Derbyshire Clinical Commissioning Groups may seek financial contribution from developments of 5 or more dwellings
- Derbyshire Fire and Rescue Service should be consulted to advise on the implications for fire safety and the potential for the installation of sprinkler systems.

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

Natural England – Comment:
- refer to previous comments
- no objection to the proposal with regard to its proximity to the Masson Hill and Rose Meadows SSSIs
- should consider impacts on local sites, landscape character and priority habitats and species.
- conditions could be attached to any grant of permission that the development is undertaken in accordance with the findings and recommendations of the surveys and reports submitted.

Derbyshire Wildlife Trust – Comments to be submitted.
DCC Development Control Archaeologist – Comment:
- the proposed development in this southern part of the quarry floor will have no archaeological impact.

DCC Crime Prevention Design Advisor – Comment:
- no comments to make at this early stage in the application process.

Derbyshire Fire and Rescue Service – Comment:
- strongly recommend installation of a domestic sprinkler system or recommend that a minimum 32mm water supply capable of delivering the required volumes of water be provided to allow easier installation in the future.

Primary Care – NHS England – Comment
- will not require a Section 106 contribution.

REPRESENTATIONS:
One letter of representation from a neighbouring resident. The comments can be summarised as follows:
- daily access for 20-40 vehicles on a busy road with 40mph limit rather than 30mph could constitute a significant danger
- site has at least two areas of Japanese knotweed
- unsure what the intention is with regard to the belt of trees behind the houses on Dale Road which add considerably to the overall scenic character of this end of Matlock Dale.

One letter from a Derbyshire resident supporting residential development of brownfield land and feels it is important that the issues for the refusal of the previous application are addressed.

POLICIES:
1. Adopted Local Plan (2005)
   SF1 Development within Settlement Frameworks
   SF5 Design and Appearance of Development
   SF7 Waste Management and Recycling
   SF8 Catering for the Needs of People with Disabilities in Development and Redevelopment
   H1 New Housing Development within Existing Settlement Framework Boundaries
   H9 Design and Appearance of New Housing
   H10 Affordable Housing within the Settlement Framework of Market Towns
   EDT1(b) Land for General Industrial and Business Development – Harveydale Quarry
   EDT2 Existing Strategic Employment Land and Business Premises
   NBE4 Protecting Features or Areas of Importance to Wild Flora and Fauna
   NBE5 Development Affecting Species Protected by Law or are Nationally Rare
   NBE6 Trees and Woodlands
   NBE7 Features Important in the Landscape
   NBE8 Landscape Character
   NBE12 Foul Sewage
   NBE13 Development On Or Adjacent to Contaminated And Unstable Land
   NBE21 Development Affecting a Conservation Area
2. National Planning Policy Framework

3. National Planning Policy Guidance

ISSUES:
1. Introduction - Planning Policy

The National Planning Policy Framework (NPPF) advises that there is a presumption in favour of sustainable development and Paragraph 11 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. It advises that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The Development Plan includes the Adopted Derbyshire Dales Local Plan (2005).

The site is within the Settlement Framework Boundary for Matlock and therefore there is a presumption in favour of development and Policy H1 advises that housing development will be permitted, particularly where it makes full and effective use of brownfield land. Whilst the site is currently allocated for employment development within the Adopted Local Plan (2005) with Policy EDT1 (b), this is unlikely to be carried forward with the emerging Local Plan. To this end, Paragraph 22 of the NPPF states that planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Given that no employment proposals have come forward to develop the site for employment purposes since its designation, limited weight can now be given to this Policy.

In addition, the District Council is currently unable to demonstrate a 5 year housing land supply to meet its objectively assessed need and this policy must be weighed in the balance. Paragraph 49 of the NPPF states that housing applications should be considered in the context of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.

Given the above, the District Council has to have particular regard to Paragraph 14 of the NPPF in the decision making process. This states that where the Local Plan is absent on this matter (as the existing Local Plan now is given the lack of identified housing land supply), regard has to be given primarily to the National Planning Policy Framework. Paragraph 14 therefore advises that there is a presumption for granting planning permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits against other policies within the NPPF.

There are several Local Plan Policies that remain consistent with the NPPF. In considering the site’s development potential, regard has to be given to Policies SF5
and H9 of the Adopted Local Plan (2005) with regard to the character and appearance of the development. The site is also within the Matlock Dale Conservation Area and the proposals need to have regard to Policy NBE21 with regard to preserving or enhancing the character and appearance of the Conservation Area.

It is necessary to consider whether there are any environmental constraints that would necessitate consideration. Policies NBE4 and NBE5 advise that where the proposals may have an impact on ecology, planning permission will only be granted if it can be demonstrated that there is an overriding need for the development. Policy NBE6 seeks to protect trees from development that may impact directly or indirectly upon them and Policy NBE8 advises that planning permission will only be granted for development that protects and enhances the character, appearance and local distinctiveness of the landscape. Policy NBE13 states that planning permission will only be granted for development on or adjacent to land that is, or suspected of being, either contaminated or unstable where it can be demonstrated that the development can take place without having an adverse impact upon public health or the safety of the local environment.

In order for the development of the site to be acceptable, it is also necessary to determine whether the site can be served by a safe and secure access, and therefore be able to satisfy Policy TR1, and provide adequate off-street parking to comply with policy TR8. Policy H10 states that development of 15 or more dwellings or development on sites in excess of 0.5ha should make provision of 45% of the dwellings being affordable dwellings. Developments of such a scale should also provide for open space and children’s play space within the site in accordance with Policy L6.

The matters detailed above are addressed as follows.

2. **The Sustainability of Housing in the Locality**
   The development is proposed on a brownfield site within the Settlement Framework Boundary of Matlock and is a sustainable location relative to the town and, therefore, is considered an appropriate location for residential development.

   However, sustainability also relates to making the most effective use of land in locations that are inherently sustainable in themselves. This is reflected in Policies SF1 and H1 of the Adopted Local Plan (2005) which state that development will be permitted where it makes full and effective use of previously developed land. In this regard, the increase in density for development of the site, compared to the previously refused scheme, is considered appropriate.

   In addition, whilst the design and layout are reserved matters, development on this former quarry site could lend itself to dwellinghouses within a more 'commercial' scale/form to reflect moreso on the industrial heritage of the site.

3. **Provision of Affordable Housing**
   The District Council has sought 45% affordable housing on major housing land releases in line with existing and emerging plan policies and such provision allows for balanced future growth by ensuring access to housing for all.
Policy H10 states that development of 15 or more dwellings or development on sites in excess of 0.5ha should make provision of 45% of the dwellings being affordable dwellings. The applicant has proposed 20 dwellings on the site with the provision of 9 as affordable housing. This is considered acceptable to meet with the requirements of the Policy.

4. **The Impact of Development on the Character and Appearance of the Matlock Dale Conservation Area**

Whilst the applicant has only submitted the Reserved Matters details for access, nevertheless an indicative layout has been submitted for the development which it is considered reasonable to comment on by way of guiding the applicant. In this respect, there is concern that the illustrative proposals present a sub-urban layout, inappropriate for this former quarry site and, given the nature and form of the site, it is considered that a development of terraces, potentially reflecting on a commercial form of development in character and appearance, would be more appropriate to the quarry setting.

In addition, there is concern that the illustrative scheme offers little to the main road elevation and this is the elevation open to public view. In this respect, it is considered that the continuation of development to form a strong street presence is required. However, this could be addressed through a Reserved Matters application.

5. **Impact on Amenity**

It is considered that the development can be assimilated into its surroundings without significantly impacting upon the amenity of the recent housing development fronting Dale Road, close to the application site access, or placing a constraint on the existing businesses on the land to the north.

6. **Highway Issues**

The Local Highway Authority has appraised the applicant’s submission and advised of no objection in principle. However, at the time of preparing the report the applicant and Local Highway Authority were in dialogue over the detailed parameters of the access configuration onto Dale Road and this will be addressed by Officers at the Planning Committee meeting.

7. **Public Rights of Way**

There is a public right of way to the west of the site but this is above the quarry face. In this respect, the proposal is not considered to have any impact on public rights of way.

8. **Provision of Infrastructure**

The County Council have advised of no need for a contribution to school places. They make reference to Derbyshire Clinical Commissioning Groups possibly seeking a financial contribution towards assisting with health provision, but this has not been raised as an issue by Primary Care – NHS England. The other matters of high speed broadband and the provision of domestic sprinkler systems are not matters which the Local Planning Authority can reasonably insist upon, but this request could be advised to the applicant as a footnote to any grant of outline planning permission.
9. Open Space and Childrens' Play Space Provision
There is a requirement under Adopted Local Plan Policy L6 to make appropriate provision for open space and play areas within developments of this scale. In particular, whilst there is no specific provision of childrens' formal play space identified, this would be a requirement for the development but could be secured by way of a condition or planning obligation on any grant of outline planning permission.

10. Landscaping
The quarry is well vegetated with naturally regenerating trees and scrub. The belts of trees at the top of the quarry face in the west are an important feature in the wider landscape but should remain unaffected by the proposal.

Trees on the road frontage either side of new development and extending to the back of existing dwellings in the south are important within the street scene and to help screen proposed development from the road and neighbouring properties. These would be expected to be largely retained in any development proposal. In addition, trees within the confines of the quarry floor are also important in that they might be used to help integrate development into the wider landscape.

The site has been developed in the past and although the loss of a substantial quantity of existing trees is required, it should be possible to retain sufficient to maintain the character of the existing landscape on the western side, screen the development from existing residential properties, maintain the street scene and integrate the development with its surroundings. If this is accomplished there is unlikely to be any significant adverse impact on local landscape character or visual amenity.

11. Ecological Matters
The whole site lies within a designated RIGS site. Policy NBE3 of the Adopted Local Plan (2005) states that planning permission for development within sites important for nature conservation, including Regionally Important Geological Sites, will only be granted if it can clearly be demonstrated that the benefits from the development outweigh the harm caused to the nature conservation value of the site.

Natural England has raised no objection to the proposal with regard to its proximity to the Masson Hill and Rose Meadows SSSIs. It has advised that the Local Planning Authority should consider impacts on local sites, landscape character and priority habitats and species. In this respect, the applicant has submitted several surveys which conclude that the proposals would have little direct impact on protected species and has set out a mitigation strategy for addressing any potential impacts. Conditions could be attached to any grant of permission that the development is undertaken in accordance with the findings and recommendations of the surveys and reports submitted.

Derbyshire Wildlife Trust had not formally commented at the time of writing this report. However, it has been advised that there may be areas of ecological interest within the site which need further assessment and possible conditions on their protection, there would be a requirement for mitigation measures for protected species, particularly bats. It is advised that full comments will be presented prior to the Committee meeting.
It is noted that there is Japanese Knotweed within the site and this would have to be addressed in accordance with prescribed practice for dealing with this problem.

12. Flood Risk and Drainage
The applicant has submitted a flood risk assessment which has been assessed by the Environment Agency and advised of no objection to the proposal. However, the Environment Agency requests Conditions on any grant of planning permission with regard to there being no infiltration into the ground unless it can be demonstrated that there would be no resultant unacceptable risk to controlled waters.

In addition, the comments of the Environment Agency with regard to the previous planning application alluded to the requirement for SuDs. However, this is no longer within their remit for comment and a consultation has been sent to Derbyshire County Council as the Land Drainage Authority in this respect. It is not expected that there will be any significant issues raised, given this has been previously appraised by the Environment Agency, and the comments of the Land Drainage Authority will be presented to the Planning Committee with details of any conditions they consider relevant.

13. Site Contamination and Land Stability
Policy NBE13 of the Adopted Local Plan (2005) states that planning permission will only be granted for development on or adjacent to land that is, or suspected of being, either contaminated or unstable where it can be demonstrated that the development can take place without having an adverse impact upon public health, safety of the local environment.

In terms of site contamination, the Environment Agency has advised that it has no in principle objections to the proposal but requests Conditions on any grant of planning permission with regard to a remediation strategy to deal with the risks of contamination.

In terms of land stability, the applicant has submitted an assessment of the quarry face stability. This advises that the risk of large scale rock slope failure is very low. It is recognised that weathering may cause some minor deterioration but that this had been very infrequent in the past and no visible evidence of damaged caused by such. The soil and boulder material at the foot of the rock face has also been stable for some time and it is expected that this will remain so in the long term provided it is not disturbed by development works.

It is, however, recommended that some mitigation measures are undertaken with the erection of a 2m high rock filled bund along the boundary with the quarry face and with regard to the removal of small trees growing out of the rock face to mitigate potential risk. The applicant’s engineer has observed measures in place at the Derbyshire County Council offices and car park and considers these constitute a precedent for the above approach.

14. Archaeology
The DCC Archaeologist has advised that site is within the former Harveydale/Holt limestone quarries (HER 30809). This was established before 1847 and operational until the 1960s. The quarry floor has been much impacted by subsequent development and earthmoving, and retains no evidence for the historic quarry
operations or infrastructure. As such, it is advised that the proposed development in this southern part of the quarry floor will have no archaeological impact.

15. **Conclusion**

Having regard to the provisions contained in Paragraph 14 of the NPPF, there is a requirement to grant planning permission where a development plan is absent, silent or where relevant policies are out of date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal will require the loss of part of a currently designated employment site in the Adopted Local Plan (2005). However, this is considered to be overridden by the Paragraph 22 of the NPPF with regard to planning policies avoiding long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose.

Given the above, the site will form an acceptable addition to the town’s housing stock located, as it is, within the current Settlement Framework Boundary of the Adopted Local Plan (2005). The proposal for residential development is also supported by Paragraph 49 of the NPPF given that the District Council cannot demonstrate a housing land supply to meet its requirements for the next five years and this site is sustainable in economic, social and environmental considerations. As such, a recommendation of approval is considered to be appropriate.

**OFFICER RECOMMENDATION:**

That authority be delegated to the Development Manager to grant outline planning permission, subject to the completion of a Section 106 Planning Obligation Agreement to secure affordable housing provision, play space/open space provision and any other matters that cannot be dealt with by conditions, and subject to the following conditions:

1. **Condition ST01a:** Time Limit on Outline

2. **Condition ST03a** Submission of Certain Reserved Matters (delete access)

3. No works of construction shall take place on the site outside of the following hours:
   - Monday to Friday: 08.00 to 20.00
   - Saturday: 09.00 to 13.00
   - Sunday/Bank Holidays: No construction.

4. The development shall be carried out in accordance with the recommendations and mitigation measures proposed in the Phase I Habitat Survey Report dated December 2012.

5. No trees or shrubs that may be used by breeding birds, shall be removed between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting activity on the site during this period, and details of measures to protect any nesting birds during this period have been first submitted to and approved in writing by the Local Planning Authority.
6. **Condition GR9**

7. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

   (i) A preliminary risk assessment which has identified:
       - all previous uses
       - potential contaminants associated with those uses
       - a conceptual model of the site indicating sources, pathways and receptors
       - potentially unacceptable risks arising from contamination at the site.

   (ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

   (iii) The results of the site investigation and the detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

   (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

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

9. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Additional Conditions required by Derbyshire Wildlife Trust and DCC as Land Drainage Authority and Local Highway Authority.

**Reasons:**

1. Reason ST01a

2. Reason ST03a
3. To safeguard the amenity of neighbouring residents to the development site to comply with government policy contained in the National Planning Policy Framework and the aims of Policies SF5 and H9 of the adopted Derbyshire Dales Local Plan (2005).

4-5. To protect protected species and their habitats within and adjacent to the development site to comply with government policy contained in the National Planning Policy Framework and the aims of Policies NBE4 and NBE5 of the adopted Derbyshire Dales Local Plan (2005).

6. Reason GR9

7. To ensure the protection of the underlying Principal Aquifer and the nearby River Derwent to comply with government guidance contained in the National Planning Policy Framework.

8-9. To ensure the protection of the underlying Principal Aquifer to comply with government guidance contained in the National Planning Policy Framework.

Additional reasons relating to Conditions required by Derbyshire Wildlife Trust and DCC as Land Drainage Authority and Local Highway Authority.

NOTES TO APPLICANT:
1. The Local Planning Authority prior to the submission of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to the reasons for refusal of planning application 14/00148/OUT.

2. This decision notice relates to the following documents:
   - Site Location Plan received on 30th April 2015
   - Illustrative Layout Plan received on 30th April 2015
   - Topographical Survey received on 30th April 2015
   - Planning Statement received on 30th April 2015
   - Development Analysis received on 30th April 2015
   - Flood Risk Assessment received on 30th April 2015
   - Transport Statement received on 30th April 2015
   - Bat Survey received on
   - Activity Survey for Bats and Birds received on 30th April 2015
   - Transect Activity Survey for Bats received on 30th April 2015
   - Reptile Survey received on 30th April 2015
   - Extended Phase 1 Survey Report received on 30th April 2015
   - Assessment of Quarry face Stability received on 30th April 2015
   - Representation to the Local Plan received on 30th April 2015.
   - Additional Information received on 1st July 2015

3. Additional Notes as may be required by Derbyshire Wildlife Trust and DCC as Land Drainage Authority and Local Highway Authority.
15/00341/FUL

Former St Elphins School, Dale Road South, Darley Dale, Derbyshire

Derbyshire Dales DC

Date: 03/07/2015
100019785

1:1,250
THE SITE AND SURROUNDINGS:
The former St. Elphin’s School is located on an expansive site (17.9 hectares) to the north-east of the A6 between Matlock and Darley Dale. The school itself comprised a range of buildings largely concentrated in the central portion of the site adjacent to the A6. The original building on the site is an imposing gritstone and slate edifice which dates from Victorian times and was built as a single dwelling. It was subsequently occupied as a spa before becoming the home of St. Elphin’s School in 1904. Other gritstone buildings used as dormitories are located to the north-east of the original house.

The land to the north and east of the school is open grazing land which slopes up from south-west to north-east and is farmed under lease.

The site has two main access points from the A6. The site as a whole has a large number of mature trees which are covered by a Tree Preservation Order. Tree belts are located along the site frontage, Grove Lane and around the playing fields with other trees as individual specimens and isolated groupings in the grazing land to the north-east. A public footpath crosses the site, running down from Greenaway Lane to the A6 at its northern end. The site lies within a break between the main urban areas of Matlock and Darley Dale. However, clusters of residential properties lie to the south east of Grove Lane to the east, along Greenaway Lane and on the opposite side of the A6.

Permission was granted in 2006 to convert and extend the school site to create an extra care community facility. The hamlet to the south east of the main house consisting of 13 cottages and 12 apartments together with the conversion of the chapel and the gatehouse were completed some time ago under the 2006 permission. Works to redevelop the main house, the dormitory block and block E and have been undertaken. This application relates to revisions to blocks A and B only.

THE APPLICATION:
Planning permission is sought to vary the permissions relating to blocks A and B. Through the progress of the development the applicant is aware that 2 bedroom units are in more demand than 1 or 3 bed units. It is therefore intended to alter the proposed blocks to reflect this change. It is also proposed to slightly modify the appearance of the elevations. The proposed blocks are also slightly repositioned on the site.

Block A
13 units are still proposed in block A over 3 floors
The changes to the elevations of block A unit are as follows:
- Alteration to the roof layout and overall form of the building
- Alterations to projecting features to the building
- North west elevation
  - Reduction in the extent of the 3 storey element
- Repositioning of gable detailing and subsequent alterations to window positioning and sizes

  • South west elevation
    - Change in position of detailed balcony features to 3 storey element
    - Change in windows details and positions

  • South east elevation
    - Alterations to window details and position
    - Alterations to position of Juliette balcony feature

  • North east elevation
    - Change to materials as stone reintroduced to the lower level of the building.
    - Break in roof line and elevation with slight projection
    - Slight alterations to window details and positions

Overall block A is slightly smaller than currently approved in terms of external dimensions (5,266m³ down to 5,195m³). The building is now 0.6m closer to Thornton Mews (converted dormitory block) than previously approved.

Block B
22 units are now proposed in block B which is a reduction from 26 granted under 14/00076/FUL

The changes to the elevations of block B unit are as follows:

  • Alteration to the roof layout and overall form of the building
  • Alterations to projecting features to the building
  • North west elevation
    - Removal of central gable
    - Additional and altered windows
  • South west elevation
    - Change in the position of the gable feature
    - Introduction of additional balcony feature
    - Alterations to design of 2 storey balcony features to be 3 storey balcony features.
    - Break in the elevation
    - Alterations to window details and positions
  • South east elevation
    - Additional and altered windows
    - Juliette balconies changed to external balconies
    - Stone to be used to the ground floor element
  • North east elevation
    - Introduction of Juliette balconies
    - Change to Juliette balconies to projecting balconies and their position
    - Alterations to window details and positions
    - Reduction in three storey element and increase of two storey element
    - Break in the elevation

Overall block B is slightly smaller than currently approved in terms of external dimensions (892.4m² down to 890.3m²). The building is now 5m closer to Thornton Mews than previously approved. The reason for this is to avoid the construction of retaining walls to the rear of the building due to the change in land levels. Most of the area between Thornton Mews and Block B is proposed to be hardstanding for car parking, on the draft landscaping plan it is shown that trees are proposed to be planted to the frontage of Thornton Mews.

The applicant has submitted a statement of community involvement which notes that a drop-in session for residents was held in May 2015 regarding the proposed developments.
RELEVANT HISTORY:
14/00076/FUL Revised design of block to incorporate 25 flats and care office – Permitted with conditions

13/00243/FUL Formation of surface water retention basin, re-contouring of former playing pitch with associated landscaping, formation of extended car parking area and erection of new entrance gateway – Permitted with conditions

12/00023/FUL Conversion and redevelopment of former school to create extra care community facility - revised design of residential Blocks A, C and D comprising 42 units – Permitted with conditions

12/00023/AMD Non Material Amendments - Amendments to detailing on blocks A, C and D and amendment of material on block A and C – Approved

12/00023/AMD/2 Non-Material Amendments - Amendments to Block A to alter the mix of apartments and associated elevational alterations – Refused

09/00685/FUL Engineering operations and landscaping works to facilitate construction of surface water retention basin – Permitted with conditions

08/00808/FUL Engineering operations comprising formation of surface water retention basin – Permitted with conditions

08/00112/FUL Engineering operations to facilitate formation of surface water retention basin and associated landscaping works – Permitted with conditions

06/00321/AMD/2 Non Material Amendment - Amendments to Blocks B1 and B2 – Permitted

06/00321/AMD Non Material Amendments - Amendments to elevations by rearranging previously proposed features – Permitted

06/00321/FUL Conversion and redevelopment of former school to create extra care community facility, associated external works and landscaping – Permitted with conditions

CONSULTATIONS:
Town Council: No response received

Highway Authority: No objections to revised residential blocks.

REPRESENTATIONS:
One letter has been received from a resident of the adjacent Thornton Mews, the concerns raised are as follows:

When I purchased my property in August 2012 Block B was to be two units immediately in front of my property. It was stressed to me that there was a considerable distance between my property and Blocks B. There were 4 parking spaces for the Thornton mews residents conveniently close to my front door. The new buildings would also be screened by a row of trees and other planting.
The 2 blocks were then merged into 1 block B; this was the same distance from my property and retained the same parking provision.

The revised proposal has moved the building closer to Thornton Mews, changing the car parking arrangements and removing the tree screen. It is also unclear as to whether the parking is at a higher level requiring a retaining wall immediately in front of Thornton Mews which would be an adverse feature of the proposals.

Moving the block B closer to Thornton Mews will have an adverse impact upon the residents of Thornton Mews.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF4: Development In The Countryside
SF5: Design And Appearance Of Development
SF8: Catering For The Needs Of People With Disabilities In Development And Redevelopment
EDT4: Other Existing Employment Land And Business Premises
EDT7: Extension And Expansion Of Existing Industrial And Business Land and Premises
EDT8: Design And Appearance Of New Industrial And Business Premises
NBE6: Trees And Woodlands
NBE7: Features Important In The Landscape
NBE8: Landscape Character
NBE9: Protecting The Important Open Spaces Alongside The A6 Through Darley Dale
NBE26: Landscape Design In Association With New Development
NBE27: Crime Prevention
TR1: Access Requirements And The Impact Of New Development
TR8: Parking Requirements For New Development

National Planning Policy Framework
National Planning Practice Guidance

ISSUES:
Principle
The principle of the development is established by the existing permissions. This application is merely to vary what has already been granted planning permission. As the housing is in an open countryside location it is necessary to tie the development via a varied legal agreement to the care facility to ensure the development is not open market accommodation.

Therefore the issues to consider in this case are the visual impact of the changes to the appearance of the building and the impact the re-siting of the building will have upon the amenities of neighbouring residents and parking.

Visual Impact
In terms of visual impact both of the proposed blocks A and B are in a very similar location to that previously approved and of the same height and scale. Therefore from distant views of the site the proposal will have no significant change to landscape impact and from this point of view is considered to be acceptable.
The design details of the building including the location of gabled features, the window positions and the balcony detail have all altered to some degree. However it is considered that the overall design is in keeping with the development that has already taken place on the site and is therefore considered to be acceptable subject to conditions to ensure that the details of materials and landscaping are appropriate to the proposed buildings and the wider site. The proposal therefore meets the policy requirements in accordance with Policies SF5, EDT8, NBE8 and NBE26 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Residential Amenity
Concern has been raised by a resident of Thornton Mews that the proposed block B will be closer to their property than originally proposed and that this will have an adverse impact upon their amenity. The proposed block B will be approximately 5m closer to Thornton Mews than formerly granted. It should also be noted that changes are proposed to the overall heights and locations of the external balcony features and Juliette (internal) balconies on the south west elevation of block B which faces towards Thornton Mews. However, there is a distance remaining of 31m between block B and Thornton Mews and the overall development is very similar to that previously permitted. It is therefore considered that the proposed changes will not have such a significant impact upon overlooking such that a refusal would be warranted. It should also be noted that a block of residential properties has been intended on this part of the site since the original approval. In terms of residential amenity the proposal is acceptable in accordance with Policies SF5, EDT7 and EDT8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Parking
Concern has been raised by a resident that the parking layout shown previously was more convenient. However from a planning point of view the parking provision and layout is considered to be acceptable in highway terms. It is understood that the allocation of parking spaces within the site is carried out by Audley who manage the entire site. It is therefore considered that as there is sufficient parking to serve the development the parking and highway layout is expectable in accordance with Policy TR8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

Conclusion
The principle of development is established by the existing permissions. This application for alterations to the scheme will bring the development closer to Thornton Mews but this is not considered to cause such harm that refusal is warranted. The changes to design and appearance and parking are all considered to be appropriate to the site in keeping with the wider development. The proposal is therefore considered to be acceptable in terms of local and national planning policy.

OFFICER RECOMMENDATION:
To grant planning permission on completion of the variation to the legal agreement and subject to the following conditions:

1. Condition ST02a: Time limit on full
2. Condition DM1: All materials to be approved general
3. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents/visitors vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

4. Notwithstanding the detail contained on the approved drawings or application form, details of the following architectural details/elements at a scale of 1:5 shall be submitted to and approved in writing by the Local Planning Authority.
   - Heads, cills and jambs.
   - Roof verges and eaves.
   - String courses.
   - Plinths.
   - Internal balcony and window railings and their reveal within stonework.
   - Windows and doors and their reveals.
   - Verge and gable coping stones and kneelers.

   The development shall then be carried out in accordance with the approved details.

5. Prior to the commencement of development a scheme of hard and soft landscaping shall be agreed and approved in writing by the Local Planning Authority. The landscaping scheme shall show the following details:– 1) Position of trees and hedges to be removed, trees and hedges to be retained, proposed trees, hedges and defined limits of shrubs and grass areas. 2) Numbers of trees and shrubs in each position with size of stock, species and variety. 3) Proposed topsoil depths for grass and shrub areas. 4) Types of enclosure (hedges, fences, railings, walls etc). 5) Types of hard surfacing (gravel, paving, tarmac, etc). 6) Re-graded contours and details of any changes in level.

6. Condition LA13a: landscaping to be carried out and maintained

7. Prior to the commencement of development details of any exterior lighting shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reasons:

1. Reason ST02a

2. To ensure an appropriate finished form of development in accordance with Policies SF5, EDT7 and EDT8 of the Adopted Derbyshire Dales Local Plan and Guidance contained within the National Planning Policy Framework.

3. In the interests of highway safety in accordance with Policy TR8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

4. To ensure an appropriate finished form of development in accordance with Policies SF5, EDT7 and EDT8 of the Adopted Derbyshire Dales Local Plan and Guidance contained within the National Planning Policy Framework.
5-6. Reason LA12a: in accordance with Policies SF5, NBE6, NBE8 and NBE26 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

7. To ensure an appropriate finished form of development in accordance with Policies SF5, EDT7 and EDT8 of the Adopted Derbyshire Dales Local Plan and Guidance contained within the National Planning Policy Framework.

Footnotes:
1. Footnote NFA8
2. 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.

3. With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 21 of the General Development Procedure Order. Where written confirmation is required that one or more conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

4. This decision notice relates to the following documents:
Amended Design and Access statement including detailed plan received 03.07.15
Statement of community involvement received 03.07.15
Blocks A, B and C setting out and site layout plan 15012/SP (ABC) 06 received 03.07.15
Blocks A, B and C site sections comparison 15012/SP (ABC) 07 received 03.07.15
Draft landscaping plan no. 112 received 03.07.15
Tree Survey 141114-P-10-02 received 22.06.15
Tree Survey 141114-P-10-01 received 22.06.15
Tree Protection Plan 141114-P-12-02 Rev B received 22.06.15
Tree Protection Plan 141114-P-12-01 Rev B received 22.06.15
Whole site as proposed 15012 Rev B received 21.05.15
Site location plan 14022/SP (BA) 01 received 18.05.15
Block A site layout 14022/GA (BA) 09 Rev A received 18.05.15
Block B site layout 14042 received 18.05.15
Masonry balcony details 14042 received 18.05.15
Timber balcony details 14042 received 18.05.15
Block B short section 14042 Rev B received 18.05.15
Block B Long section 14042 Rev B received 18.05.15
Block B Side elevations 14042 received 18.05.15
Block B Front and rear elevations 14042 Rev B received 18.05.15
Block B Ground floor plan 14042 received 18.05.15
Block B First floor plan 14042 received 18.05.15
Block B Second floor plan 14042 received 18.05.15
Block A detailed design NE elevation D 14022/GA (B) 08 received 18.05.15
Block A detailed design SW elevation C 14022/GA (B) 07A received 18.05.15
Block A detailed design SW elevation B 14022/GA (BA) 06 A received 18.05.15
Block A detailed design NW elevation A 14022/GA (BA) 05 A received 18.05.15
Block A roof plan 14022/GA (BA) 04 A received 18.05.15
Block A – GA plan (Ground) 14022/GA (BA) 01 B received 18.05.15
Block A – GA plan (First) 14022/GA (BA) 02 B received 18.05.15
Block A – GA plan (Second) 14022/GA (BA) 03 B received 18.05.15
**NOT CONFIDENTIAL** - For public release

**PLANNING COMMITTEE – 14ᵗʰ July 2015**

**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>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Southern</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13/00818/FUL</td>
<td>Bradley Nook Farm, Hulland Ward</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00331/CLPUD</td>
<td>Headlow Fields Farm, Snelston</td>
<td>WR</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
</tr>
<tr>
<td>14/00408/PDA</td>
<td>Overtown Farm, Overtown, Hognaston</td>
<td>WR</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
</tr>
<tr>
<td>14/00664/PDA</td>
<td>Kingsgrove Farm, Brailsford</td>
<td>WR</td>
<td>Appeal dismissed – copy of appeal decision attached</td>
</tr>
<tr>
<td>14/00801/FUL</td>
<td>Keepers Field, Bullhill Lane, Ireton Wood</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>ENF/14/00082</td>
<td>Keepers Field, Bullhill Lane, Ireton Wood</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00641/FUL</td>
<td>Parkfield Byre, Offcote, Kniveton</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00009/VCOND</td>
<td>Home Farm, Main Street, Hopton</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00086/FUL</td>
<td>35 The Green Road, Ashbourne</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00141/FUL</td>
<td>Halfway House, Clifton Road, Clifton</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00354/OUT</td>
<td>Leys Farm, Wyaston Road, Ashbourne</td>
<td>PI</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td><strong>Central</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14/00089OUT</td>
<td>Asker Lane, Matlock</td>
<td>PI</td>
<td>Appeal allowed – copy of appeal decision attached</td>
</tr>
<tr>
<td>14/00704/FUL</td>
<td>25 Cavendish Road, Matlock</td>
<td>HH</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>T/14/00138/TPO</td>
<td>Beech Hurst, 228 Dale Road, Matlock Bath</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
</tbody>
</table>
### Written Representations

<table>
<thead>
<tr>
<th>Application Number</th>
<th>Description</th>
<th>Type</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>14/00760/VCOND</td>
<td>Rear of 11A Little Bolehill, Bolehill</td>
<td>WR</td>
<td>Appeal allowed – copy of appeal decision attached</td>
</tr>
<tr>
<td>14/00652/OUT</td>
<td>Land south of Rowan House, Hopton</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00546/PDA</td>
<td>Spite Winter Farm, Oakerthorpe Road, Bolehill</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00810/ADV</td>
<td>Land at Bakewell Road, Matlock</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00883/FUL</td>
<td>37 Northwood Lane, Darley Dale</td>
<td>HH</td>
<td>Appeal being processed</td>
</tr>
</tbody>
</table>

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

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decision

Site visit made on 26 May 2015

by A U Ghafoor  BSc (Hons) MA MRTPi
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 June 2015

Appeal Ref: APP/P1045/X/14/2224255
Headlow Fields Farm, Snelston Ashbourne DE6 2GP

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr James Stanton against the decision of Derbyshire Dales District Council.
- The application Ref 14/00331/CLPUD, dated 12 May 2014, was refused by notice dated 3 July 2014.
- The application was made under section 192 (1) (b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is a proposed single storey garden building to provide office/recreational space for use by the owners of Headlow Fields Farm.

Decision

1. The appeal is dismissed.

Reasons

2. Class E, part 1, schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (GPDO) sets out permitted development rights for: the provision within the curtilage of the dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to conditions and limitations. On 15 April 2015 statutory instrument no. 596 came into force. At the date of the LDC application the 1995 as amended version was in force and is relevant.

3. Two controversial issues require my detailed assessment. Firstly, whether or not the proposed building is required for a purpose incidental to the enjoyment of the dwellinghouse as such. Secondly, whether the building would satisfy the physical criteria set out in Class E of the GPDO.

4. The site comprises of a detached dwelling, known as Headlow Fields Farm, and outbuildings. There are a group of separate rural buildings arranged round a courtyard adjacent to the farmhouse. The appeal site is accessed via a farm track. The proposed single-storey building would be located in the garden to Headlow Fields Farm. It would comprise of office accommodation, a kitchenette, a toilet, store and a lobby. The building would be about 12.1 m long and 6 m wide. It would be 4 m tall and have a pitched roof.

5. The Courts have held that the word ‘required' in Class E should be interpreted to mean ‘reasonably required’. The words ‘as such’ are also important. Thus, in this
type of case, the appellant should show that what is proposed is reasonably required for a purpose incidental to the use of the dwellinghouse as a dwellinghouse. It is therefore appropriate to examine the reasons for development being 'required' under Class E. The onus of proof is squarely on the appellant and the relevant legal test is on the balance of probability.

6. When evaluating whether the building is reasonably required for the enjoyment of the dwellinghouse as such, matters such as personal preference are not conclusive factors. The matter does not rest solely on the unrestrained whim of the householder. A building will not necessarily be reasonably required just because a householder says it is, and it is for an appellant to demonstrate that a building of a proposed size is reasonably required, and that it would be designed with incidental uses in mind, having regard to all of the circumstances.

7. The proposed building would have a substantial footprint. The office would be used in connection with the agricultural business, but there is a lack of specific detail as to why the office’s size is required. For instance, there are no details showing who would use the space, what type and amount of equipment would be located in the office or what activity would take place. In addition, the information does not show that the existing group of outbuildings associated with the dwelling cannot be used for office purposes. The argument is that the main farmhouse has an office, but there is no specific explanation as to why the existing property’s layout cannot be efficiently organised in a manner so that it can accommodate a farm office.

8. There is a distinct lack of explanation as to why a separate storeroom is required. The evidence presented does not show what type of equipment or items would be stored in the building. It does not show that the size of the building is required for storage purposes. There is no reason given as to why the existing dwelling or outbuildings cannot be organised in a more efficient manner so that these spaces can be used for storage purposes. I find that the evidence does not show that the size and scale of the proposed building is required for office and storage purposes.

9. Furthermore, the layout plans show the building would include a kitchenette and toilet. The Department issued technical guidance (TG) in August 2010 (updated April 2014) to assist in the interpretation of the GPDO. The TG states that a purpose incidental to a dwelling house would not cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen [my emphasis]. The appellant does not explain the reason as to why a kitchenette and toilet is required in a separate building.

10. There is an added complexity to this matter. On the block plan the building is identified as a 'log cabin' which seems to be an inaccurate description. This is because the LDC application form describes the proposed development as ‘...single storey garden building to provide office/recreational space...’ The plans do not identify which part of the building would be used for recreation. The oblique stroke punctuation could be interpreted as meaning ‘and’ or ‘or’ (or perhaps office and recreation). I consider that this lack of specificity introduces significant degree of imprecision as to what the building would be used for. Merely making an application for an LDC and stating a proposed use or uses does not provide a case that what is proposed is or would be reasonably required.

11. Pulling all of the above points together, on the balance of probability, in my view the evidence presented does not show, to my satisfaction, that the building would...
reasonably be required for a purpose incidental to the enjoyment of Headlow Fields Farm as a dwellinghouse.

12. Paragraph E.1 sub-section (b) states that development is not permitted if any part of the building would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse. The appeal parties disagree as to what constitutes the principal elevation for GPDO purposes.

13. The TG states the principal elevation will be that part of the house which fronts the main highway serving the house. It will usually contain the main architectural features such as main bay window or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. Forward of a wall forming the principal elevation means that development is not permitted under Class E in any area in front of the principal elevation of a house. It also prevents permitted development anywhere in front of a hypothetical line drawn through the principal elevation to the side boundary of the land surrounding the house.

14. The appellant considers the principal elevation of the farmhouse is the facade facing the driveway and forms part of the farmyard collection of buildings. The Council states that the south-facing elevation is the principal elevation even if it is not visible from public vantages; I concur for the following reasons.

15. Compared to the north, east and west elevations the south-facing elevation includes main architectural features such as central door, large window openings serving habitable rooms. It also includes some architectural detailing. The south-facing facade overlooks the garden whereas the east elevation faces a group of farm buildings and courtyard. Unlike the east elevation the south-facing facade does not directly face the highway, but the dwelling is set some distance away from the road down a farm track. People can approach the southern elevation to the farmhouse via a garden path and it contains the main entrance to the building. Given the dwelling’s layout, the southern elevation receives majority sunlight. The functional design and degree of ornamentation on the south-facing facade is not apparent on the other elevations. I find that the south-facing elevation can reasonably be regarded as the principal elevation.

16. Putting my findings on the first controversial issue to one side, I consider that the development would fail to meet with the physical criteria in paragraph E.1 sub-paragraph (b). This is because the proposed building would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.

Conclusion

17. For the reasons given above and having considered all other matters, on the evidence now available, I conclude that the Council’s refusal to grant a certificate of lawful use or development in respect of proposed single storey garden building to provide office/recreational space for use by the owners of Headlow Fields Farm was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A U Ghafoor
Inspector
Appeal Decision

Site visit made on 9 February 2015

by Tom Cannon  BA DIP TP MRTP
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 June 2015

Appeal Ref: APP/P1045/A/14/2226259
Barns 1 and 2, Overtown Farm, Overtown, Hognaston, Derbyshire DE6 1NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr David Green against the decision of Derbyshire Dales District Council.
- The application Ref 14/00408/PDA, dated 19 June 2014, was refused by notice dated 18 August 2014.
- The development proposed is the conversion of existing attached barn and adjacent detached barn to dwellings.

Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matters

3. The application to the Council was made under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995, as amended. However, that statutory instrument has been revoked and replaced with the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Equivalent provisions are now included within Schedule 2, Part 3, Class Q of that Order. The relevant legislation provides for anything done under the previous provisions to be treated as if done under the new provisions, so an application made under Class MB has effect as if made under the new Class Q. I have proceeded on this basis.

4. Under Class Q, permitted development rights apply to a change of use of a building and any land falling within its curtilage to a use falling within Use Class C3 (Class Q(a)) together with building operations reasonably necessary to convert the building to such a use (Class Q (b)). Paragraph Q.1 sets out the limitations applying to the exercise of permitted development, while paragraph Q.2 sets out the conditions applying.

5. For proposals involving building operations, development is not permitted under paragraph Q.1 if amongst other things, it would consist of building operations other than; the installation of windows, doors, roofs, or exterior
walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.

6. Also included within the above provisions is a requirement for an application to determine whether the Council’s prior approval is required as to the impacts/risks in respect of transport and highways, noise, contamination and flooding. Moreover, under Class Q, prior approval must be sought as to whether “the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3”. In respect of proposals which involve building operations permitted under Class Q (b), prior approval can encompass the design or external appearance of the building.

7. The procedure for applications for prior approval under Part 3 is defined in paragraph W to part 3, while paragraph X provides an interpretation of the terms used in Part 3. For the purposes of development under classes Q, R and S, the interpretation of the term ‘curtilage’ is defined as “(a) the piece of land, whether enclosed or unenclosed, immediately besides or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the building no larger than the land area occupied by the agricultural building, whichever is the lesser”. My reading of this is that, if a proposal fails to comply with the above interpretation, it would not represent permitted development and should be refused, rather than invalidate the application as suggested by the Council.

8. On 5 March 2015, certain new or amended paragraphs, within the Government’s Planning Practice Guidance (PPG) came into force concerning permitted development rights for the change of use of agricultural buildings. This included confirmation that the permitted development right does not apply a test in relation to the sustainability of the sites location. The permitted development right recognises that many agricultural buildings may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house.

9. Clarification is also provided as to what might be meant by “impractical” or “undesirable” for the purposes of paragraph Q.2. My interpretation of the updated guidance is that these words are restricted to their commonly-understood everyday meaning. When siting and location are considered, the PPG indicates that the decision-maker should consider the National Planning Policy Framework (the Framework) only to the extent that it is relevant to the matter upon which prior approval is sought. The guidance provides examples of where this may be appropriate, including it may relate to more limited site-specific considerations such as the proximity to poultry farming buildings, silage storage or buildings with dangerous machinery or chemicals. Appeal Ref: APP/E2734/A/14/220495 referred to by the Council pre-dated the amendments to the PPG, and as such the Inspector did not have the benefit of clarification of what constitutes “impractical” or “undesirable” in reaching his decision.

10. I have had regard to the above provisions, requirements and interpretations and in particular, the recently-issued guidance on interpretations in the PPG. Therefore, since the new guidance has a material bearing on my decision I...
have sought the parties’ views on it. In addition, I have requested comments from both the appellant and the Council regarding the extent of the curtilage of the buildings to be converted. Further representations have been made by the parties in this respect, and I have taken these into account in my decision. Moreover, comments on the ‘National Policy Statement for National networks’ published by the Department of Transport on 17 December 2014 have also been made by the Council and the appellant.

**Background and Main Issues**

11. The Council has not suggested that prior approval is required in respect of transport, highways and noise impacts of the development, or contamination and flooding risks on site as set out in paragraph Q.2. Although I have taken account of the views of the Parish Council in respect of matters relating to highway safety, from my observations on site, I see no reason to disagree with the Council’s view on such matters.

12. In light of the above, the main issues in this case are:

(i) whether the proposed change of use amounts to permitted development pursuant to Class Q (a) of Part 3 of Schedule 2 to the GPDO, having regard to the extent of its proposed curtilage;

(ii) whether the proposed building operations are reasonably necessary for the building to function as a dwellinghouse; and

(iii) whether the location or siting of the building makes it otherwise impractical or undesirable for residential use.

**Reasons**

**Extent of curtilage**

13. The definition of “curtilage” for the purposes of Class Q is set out in the GPDO, and in the procedural matters listed above. Whether based on an area closely associated with and serving the purpose of the building in its former agricultural use or an area no larger than the land area occupied by the building, it cannot exceed the lesser of the two in area. The buildings to be converted, the adjoining farmhouse and outbuilding are set within a roughly hardsurfaced yard which extends to the access road.

14. The appellant does not expressly identify the curtilage of the two buildings on the plans. Nor has a “red line” area been drawn around the site demarking the potential curtilage of the barns to be converted. It is accepted by the appellant that identifying the curtilage of individual agricultural building is not easy in practice. However, in this case there are physical boundaries on all but the eastern boundary. To the north of barn 1 is a mature hedgerow which encloses land immediately to the rear of this building. Although this area is of limited depth, it is broadly comparable to the footprint of the building to be converted. Directly to the east of the structure is a dutch barn which appears to be closely associated to the agricultural use of barn one. This land, in combination with the area to the north of the structure, which are both shown to be enclosed on the submitted plan, and the three parking spaces allocated for the proposed dwelling would clearly exceed the area of land occupied by the original building.
15. To the rear of barn 2 is an area of grassland which extends out to a post and wire fence separating the appeal site from the adjacent field. This area is significantly larger than the land occupied by the building. It has been suggested by the appellant that the line of a former hedgerow to the east of barn 2 could form the boundary of the curtilage of this building. However, even if this were the case, the reduced area, together with the two parking spaces to be provided for the proposed dwelling within the yard, would also far exceed the area of land occupied by the original building. Consequently, as the proposed curtilage for both barns 1 and 2 exceed that defined under paragraph X for the purposes of Class Q, the proposal cannot be permitted development as its area would exceed that to which permitted development rights apply. Thus, the proposed change of use would not amount to permitted development pursuant to Class Q (a) of Part 3 of Schedule 2 to the GPDO, having regard to the extent of its proposed curtilage.

16. My attention has been drawn to a recent appeal decision in the District Ref: APP/P1045/A/14/2228127, where the Inspector, despite dismissing the appeal, partially due to the extent of the proposed curtilage, considered if it would be possible that a more restricted curtilage could be demarked by condition. However, despite being asked for comments on the definition of “curtilage” in paragraph X, the appellant has not provided details of how a reduced sized curtilage would fail to satisfy these requirements. Nor, from the evidence put before me in this appeal is it clear how appropriately sized areas for barns 1 and 2 could be defined by condition. Such an approach would not therefore be sufficiently precise and fail to satisfy the statutory tests in paragraph 206 of the Framework.

Building operations

17. The only alterations to the external appearance of the buildings would be the installation of several new rooflights to barn 1, and new windows, a door opening and rooflights to barn 2. As such, they would fall within the list of building operations which are not explicitly excluded in paragraph Q.1. In any case, the new openings would enable all of the first floor of both barns to be fully utilised as habitable space by providing natural light and outlook from the rooms and circulation space within the buildings. The ground floor openings serving barn 2 would also allow for access to the rear of the building and a natural light source to the proposed kitchen. As such, the number of new window and door openings would be ‘reasonably necessary’ for the barns to function as dwellinghouses.

18. The buildings have a regular form, a reasonably balanced appearance and some attractive detailing. The proposed alterations would be modest, with only a small number of new window and door openings to be introduced. Although the majority of the openings would be concentrated in barn 2 they would not detract from the simple agrarian appearance and form of the building. Thus, by returning the buildings to use, the appeal development would preserve the design and external appearance of both barns.

Whether siting and location impractical or undesirable

19. Dealing with location first, the appeal relates to, two brick and tile former agricultural buildings at Overtown Farm. They form part of a small cluster of development situated at the end of a lane accessed off the main road leading to Carsington Water. A current planning application for the conversion of the
buildings subject to this appeal has the benefit of a resolution to grant planning permission, subject to completion of a planning obligation.

20. Given that the existing access road appears to be well maintained and the buildings are grouped together with several other domestic properties, I see no reason why the proposed location is neither impractical nor undesirable for residential development. Although the Council accepts that the test regarding the sustainability of location no longer applies to such development, they have not provided any further detailed evidence why its location fails to meet the two tests in the PPG.

21. In respect of siting, although, due to the topography of the area the appeal site occupies an elevated position, the barns clearly read as part of a modest group of buildings in the open countryside. The proposed parking and turning area would also be contained within the enclosed courtyard. Existing walls, fences and hedgerows to the north, east and south of the land, together with the adjacent structures would largely screen any domestication of the land from the surrounding countryside and public footpath network. Consequently, the siting of the buildings would have a limited effect on the landscape and therefore accord with one of the core planning principles of the Framework, to recognise the intrinsic beauty of the countryside. As such, the location and siting of the buildings would not be impractical or undesirable for residential use.

Other Matters

22. The appeal site is located outside of a settlement and within the open countryside. The Council suggest that Policies H4 and H12 of the Derbyshire Dales Local Plan 2005 (LP) require new residential development outside settlement boundaries to provide for affordable housing. However, on the 28 November 2014 the Written Ministerial Statement (WMS) was issued setting out national policy on S106. The PPG reaffirms this, confirming that affordable housing and tariff style planning obligations should not be sought for small scale residential schemes. The LP was adopted in 2005. The WMS therefore provides more up to date national policy than Policies H4 and H12 of the LP. As such, I consider that the LP is no longer consistent with national policy in this regard.

23. The Council also state that the scheme would conflict with both the LP and the Conversion of Farm Buildings Design Guidance Supplementary Planning Document 2005 (SPD) in respect of the design and level of alterations proposed. In support of its approach the Council relies on reference in the Framework to applications being determined in accordance with the development plan, unless material considerations indicate otherwise. Nonetheless, in determining this application the GPDO states that only representations made by the local highway authority and representations made in response to local notices, together with the Framework so far as it is relevant to the subject matter of the prior approval, shall be taken into account.

Conclusions

24. I conclude that the proposal cannot amount to permitted development. I accept that it may be possible to define a more restrictive curtilage for both buildings. Nevertheless, this uncertainty is not addressed in the evidence
before me. Consequently, this leads me to the conclusion that prior approval for the proposed change of use cannot be granted on this application. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

T Cannon

INSPECTOR
Appeal Decision

Site visit made on 19 May 2015

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

Decision date: 24/06/2015

Appeal Ref: APP/P1045/W/15/3004377
Kingsgrove Farm, North Lane, Brailsford, Ashbourne, Derbyshire DE6 3BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr Charles Asher against the decision of Derbyshire Dales District Council.
- The application Ref 14/00664/PDA, dated 1 October 2014, was refused by notice dated 25 November 2014.
- The development proposed is described as 'the proposal is to convert the barn into a 2-bedroom dwelling in accordance with the details shown on drawing ref. PA/14-032 SK 81 01.'

Decision

1. The appeal is dismissed.

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) came into force on 15 April 2015. This replaced the 1995 (as amended) GPDO that the Council determined the proposed change of use under. Class MB and Section O of the GPDO 1995 (as amended) are now Class Q and Class X in Part 3, Schedule 2 of the 2015 Order. Consequently, I have determined the appeal on the basis of the current legislation.

3. The description of the development refers to drawing ref. PA/14-032 SK81 01. However the drawing showing the floor plans and elevations considered by the Council is ref. PA/14-032 SK 81 01 A. As this latter drawing is before me I consider the appeal on this basis.

Main Issue

4. The main issue is whether the proposed change of use amounts to permitted development pursuant to Class Q of Part 3 of Schedule 2 of the GPDO.

Reasons

5. The site forms part of Kingsgrove Farm and comprises a one and a half storey barn situated in the corner of a field within open countryside. There is no defined track to the building through the field which is accessed by a gate off Mercaston Lane. The building appears to be largely intact with elevations faced
with red bricks and a tiled roof. There are several existing door openings, two with old doors still in place and two others open to the elements. Other smaller openings have been bricked up. The site includes an area of land around the building, the extent of which is defined by existing post and rail/wire fencing, a farm gate and hedgerows. Although not occupied at the time of my visit, I note that the barn has recently been used as an animal shelter.

6. The proposed change of use would include the barn, the land to the front, rear and side of the building and part of the field which would be required to build an access track to the site. The extent of the proposed curtilage of the building is clearly defined both on the ground and on the plans. The proposal would therefore result in a front garden to the north east of the building, a slightly larger rear garden to the south west and a parking and turning space to the southern side.

7. Undisputed Council figures indicate that the resultant dwelling would have an overall floor area of around 67 sq m and an associated curtilage of around 415 sq m inclusive of the access track.

8. In order to benefit from the provisions of Class Q of Part 3 of Schedule 2 of the GPDO the proposed change of use of the barn to a dwelling must have a proposed curtilage immediately beside or around the agricultural building that is no larger in size than the land area occupied by the agricultural building. The definition of a curtilage for the purposes of Class Q is clearly set out within Class X in Part 3, Schedule 2 of the GPDO.

9. In this case, the curtilage would far exceed the land area that is occupied by the agricultural building and, therefore, the proposal is not permitted development. The proposed front and rear garden areas alone would cumulatively be significantly larger than the footprint of the barn. Consequently, it is development for which an application for planning permission is required. This would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO.

Conclusion

10. As I have found that the proposal is not permitted development I have not considered any further matters raised. Accordingly, for the reasons given above I conclude that the appeal should be dismissed.

Y Wright

INSPECTOR


**Appeal Decision**

Inquiry held on 21, 22, 23 and 24 April 2015
Site visit made on 23 April 2015

by Brendan Lyons  BArch MA MRTPI IHBC
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 July 2015

Appeal Ref: APP/P1045/A/14/2227116
Land at Asker Lane, Matlock, Derbyshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Richborough Estates Partnership LLP against the decision of Derbyshire Dales District Council.
- The application Ref 14/00089/OUT, dated 11 February 2014, was refused by notice dated 15 May 2014.
- The development proposed is described as: residential development of up to 110 dwellings and associated open space (outline).

**Decision**

1. The appeal is allowed and outline planning permission is granted for residential development of up to 110 dwellings and associated open space (outline) at Land at Asker Lane, Matlock, Derbyshire, in accordance with the terms of the application Ref 14/00089/OUT dated 11 February 2014, subject to the conditions set out in the schedule annexed to this decision.

**Preliminary matters**

2. At the Inquiry an application for costs was made by the appellants against the Council. That application is to be the subject of a separate Decision.

3. The description of development in the heading above was amended by the Council from that shown on the planning application form. The appellants confirmed at the Inquiry that they agreed the revised description, and I have therefore adopted it for my decision on the appeal.

4. The planning application was submitted in outline form, with only the principle of development and the access to the site for full approval at that stage, and matters of layout, scale, appearance and landscaping reserved for later detailed approval. At the Inquiry, the appellants asked that the matter of access should also be reserved. Sufficient information was provided with the application documents to indicate the areas where access to the site would be situated\. I am satisfied that no other party’s interests would be prejudiced by this change and have considered the appeal proposal on the basis that all matters are now reserved.

---

1 Transport Assessment  Figs 6.1, 6.2 RevA
5. A signed Statement of Common Ground (‘SoCG’) was submitted in advance of the Inquiry. This records the two main parties’ agreement on the weight to be afforded to the adopted and emerging development plan, and the approach to decision making set out by the Government guidance of the National Planning Policy Framework (‘NPPF’) and the Planning Practice Guidance (‘PPG’). The SoCG identifies a range of topics not in dispute or which the parties feel could be satisfactorily resolved by the use of planning conditions or obligations. Matters still in dispute are also set out. However, the Council subsequently submitted a Position Statement as an addendum to its main appeal statement, which clarifies that some of these issues could in fact be addressed by the use of conditions or obligations.

6. The SoCG sets out the Council’s continuing reservations about the plans submitted with the appeal, arguing that the most recent revision of the Illustrative Landscape Masterplan\(^2\) (‘ILM’) should not be considered as it was supplied after the application was refused. As all matters are now reserved for later approval, only the Site Location Plan, showing the red line site boundary, requires full formal approval at this stage. It is not disputed that the revision to the ILM was made to bring it into accord with the latest revision of the Illustrative Masterplan\(^3\) (‘IMP’), which had been properly considered by the Council, and that no other significant changes had been made from the earlier version. These plans are illustrative only, without binding effect. I find that no party’s interests would be prejudiced by the consideration of the later ILM in support of the appeal. Further illustrative material was tabled during the course of the Inquiry.

7. The planning application was accompanied by draft Heads of Terms for a planning obligation under S106 of the Town and Country Planning Act 1990, but no agreement was concluded before the application was refused. A draft obligation, in the form of a unilateral undertaking (‘UU’) by the landowners, was submitted with the appeal, and an updated version at the opening of the Inquiry. By the close of the Inquiry a copy was provided of a completed UU framed in terms acceptable to the Council. The UU sets out covenants in respect of the provision and management of affordable housing and public open space on the site, and the payment of financial contributions towards the provision of off-site affordable housing, education, sports and play areas, and travel plan monitoring. The merits of the obligations are considered later in this decision.

8. The planning application was refused in May 2014. A similar application was re-submitted in August 2014\(^4\), and was recommended for approval, but was again refused by the Council. Some illustrative material from the second application was tabled during the Inquiry.

9. The appeal site is the subject of an application made by some local residents for registration as a Village Green under the Commons Act 2006. This application had been heard at a public inquiry held by an independent inspector appointed by Derbyshire County Council. At the time of the appeal Inquiry, the County Council’s decision on the application was still awaited. In view of the implications for the proposed development, the appellants were offered the opportunity to defer the appeal Inquiry, but confirmed their wish to proceed.

---

\(^2\) Plan Ref BIR.4029_12 B
\(^3\) Plan Ref BIR.4029_07-1 E
\(^4\) Application Ref 14/00527/OUT
Appeal proposal

10. The appeal site lies on rising ground near the northern edge of the built-up area of Matlock. It comprises 7.25 ha of land divided by mature hedgerows and stone walls into a number of fields, some of which have been used for grazing and others left as unmanaged scrub. The north-eastern corner of the site forms a distinctive feature known as Bailey’s Tump, which is a raised earthwork made up of spoil excavated for the Derwent Valley Aqueduct, which crosses the site. The level top of Bailey’s Tump displays clear evidence of locally important World War II gun emplacements, and is managed by the Town Council as a public space. A small group of trees to the south of Bailey’s Tump is protected along with other trees in the area by a Tree Preservation Order (‘TPO’).

11. The site has highway frontages to Asker Lane to the north, Bull Lane to the east and Chesterfield Road to the west. A private road along the southern boundary serves a primary school and the convent to which the land belongs. This road and its continuation as a footpath through the site are designated as a public right of way (‘PROW’) and link with other public paths to the east and west. The site is also crossed by a number of permissive paths.

12. A very small portion of the site adjoining the convent lies within the Matlock Bank Conservation Area (‘CA’), but the bulk of the widely drawn CA comprises the older urban realm to the west of Chesterfield Road. On its other sides, the site is adjoined by modern housing areas.

13. Permission is sought to develop the site with up to 110 houses, 25% of which (28 units) would be provided as affordable housing, with funding for a further 20% (21 units) to be provided off-site. Access would be taken along the Asker Lane frontage and off the private road, which would be upgraded to adoptable standard. The IMP suggests a potential outline layout for the development, with houses fronting onto a network of roads concentrated in the centre and west of the site, with about half of the total area, including Bailey’s Tump, left undeveloped as public open space or ecological mitigation. A ‘Testing Layout’ submitted in support of the appeal shows how the IMP might be realised, with a mix of detached, semi-detached and terraced houses, open spaces and a children’s play area.

Main Issue

14. It was agreed at the Inquiry that the main issue in the appeal, based on the Council’s reason for refusal, is whether the proposal would provide a sustainable form of development in accordance with national and local policy, having particular regard to its effect on the character and appearance of the area, including that of the Matlock Bank Conservation Area.

Reasons

Policy context

15. For the purposes of this appeal, the development plan comprises the saved policies of the Derbyshire Dales Local Plan (‘LP’) adopted in 2005 to guide development up to 2011. Work was begun on the preparation of a new-style Local Plan to cover the period up to 2028, but the plan was withdrawn at the examination stage in October 2014. It is common ground that no weight can be attached to the draft policies of that plan, despite reference to them in the reason for refusal.
16. Although the appeal site is almost completely surrounded by existing development, the settlement boundary defined by LP Policy SF1 has been drawn to exclude the site. As a result, development of the site falls to be considered under LP Policy SF4, which is intended to protect the open countryside, and primarily envisages only essential development for agriculture and tourism. Rather confusingly, the north-east corner of the site, comprising Bailey’s Tump and some of the land at its base is allocated as an Important Open Space under LP Policy SF2, which should as drafted relate only to land within settlement boundaries.

17. The reason for refusal of the planning application is based on conflict with LP Policy SF4 and with LP Policy NBE8, which seeks to protect the character, appearance and local distinctiveness of the landscape. No reference is made to LP Policy H4, which deals specifically with housing outside settlement boundaries, and seeks to restrict it to that for agricultural or affordable needs.

18. Since the withdrawal of the emerging LP, the Council now accepts that it cannot demonstrate a five-year supply of deliverable housing land in accordance with the requirements of NPPF policy. Therefore the confirmed need for additional housing to boost the supply becomes a matter of significant weight in the determination of the appeal.

19. In the absence of a five-year supply, the NPPF advises that the housing supply policies of the LP cannot be considered as up to date. The appeal proposal must therefore be assessed in the context of the presumption in favour of sustainable development set out in paragraph 14 of the NPPF. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole, or unless specific policies of the NPPF indicate development should be restricted.

20. Because of the supply shortfall, the Council agreed in the SoCG that LP Policy H4 is out-of-date, but continued to assert the applicability of LP Policies SF4 and NBE8. The appellants argued that the tight restriction on development imposed by LP Policy SF4 is virtually identical in effect to that of LP Policy H4. The policy is clearly a general policy that restricts the supply of housing, and the settlement boundaries upon which it is based were drawn up for the period to 2011 and no longer reflect current housing need. It appears that the Council has accepted at two previous appeals5 that the policy is out-of-date, and that this has been endorsed in those appeal decisions. I find no reason to take a different view.

21. The Council’s initial position was that Policy SF4 had two strands, one of which could be accepted as out of date, while the other, the principle of countryside protection, could be sustained because of consistency with the core principles of the NPPF. Reference was made to an earlier decision of mine in an adjoining district6, which the Council, incorrectly in my view, interpreted as a precedent for this approach. However, a recent High Court judgement7, tabled at the Inquiry, has confirmed that a policy cannot be divided in this way by applying only part of it. I conclude that Policy SF4 must be regarded as out-of-date.

---

5 Appeals Ref APP/P1045/A/13/2195546, APP/P1045/A/14/2226401
6 Appeal Ref APP/H1033/A/13/2204114
7 Cheshire East Borough Council v Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP [2015] EWHC 410 (Admin)
22. The appellants argued at the Inquiry that Policy NBE8 did not apply to the appeal site as it only related to landscapes identified by the Derbyshire Landscape Character Assessment, which do not include the appeal site as it forms a virtual island within the urban area. Whilst this point was conceded on behalf of the Council, my own reading of the policy and its supporting text is less prescriptive. The supporting text endorses the use of Character Assessment in support of the objective of maintaining or enhancing the distinctive character of the whole of the countryside. But neither the policy itself nor the supporting text rules out application of the policy to any anomalous areas, such as the appeal site, that might not be covered by the formal Assessment. The site’s contribution to the wider landscape or townscape is a matter of relevance in considering its sustainability as a location for the proposed development.

23. However, the need for additional housing, some of which will almost certainly have to be outside the currently identified settlement boundary, means that the tightly restrictive approach of Policy NBE8 can no longer be regarded as consistent with the up-to-date guidance of the NPPF, which promotes a more balanced approach to landscape protection. Greater weight must be given to the policies of the NPPF as a whole than to the narrow focus offered by the LP policy. This accords with the conclusions of the two earlier Inspectors.

24. By the close of the Inquiry, the Council had acknowledged that greatly reduced weight might be given to the LP policies, but contended that the reason for refusal already encompassed the testing of the proposal against NPPF policies as a whole, in accordance with paragraph 14 guidance.

25. I conclude that the weighted test outlined by paragraph 14 in support of the presumption in favour of sustainable development must be applied in determining the appeal.

**Character and appearance**

26. The planning application was supported by a Landscape and Visual Impact Assessment (‘LVIA’), based on recognised good practice guidelines. The conclusions of the LVIA were subject to some re-assessment in further detailed evidence for the appellants, which I take to be their up-to-date view. The Council’s evidence does not dispute the LVIA methodology and includes its own professional assessment of landscape and visual impacts. An earlier less comprehensive LVIA had been carried out by the Council in 2012 as part of the evaluation of sites for the replacement LP.

**Landscape/Townscape impact**

27. The Council places emphasis on its evaluation of the ‘semi-rural’ character of the site, a term that is used in the LVIA. This is not an inapt description, but there is an important distinction between ‘semi-rural’ and ‘rural’. The appeal site displays a character which is relatively typical of land at the edge of the urban area, where agricultural use is difficult or impossible to sustain and pressures arise from the adjoining residential use. At least a substantial part of the site is no longer actively managed and some boundaries have been breached.

28. In my view the assessment of the site by the Inspector who conducted the Local Plan Inquiry in 1996 remains valid. He described it as ‘a remnant piece of
former countryside’ comprising ‘half a dozen or so neglected fields... now entirely surrounded by suburban estates on three sides and an older mainly Victorian residential area to the west’. The site’s virtual enclosure by development was critical to his judgement that it could no longer be regarded as part of the countryside, and that remains so today, even though the site may well retain some characteristics of surrounding Landscape Character Types, as well as some visual links to distant slopes.

29. Because of this definite urban context, I agree with the appellants that the core planning principle of the NPPF with regard to ‘recognising the intrinsic character and beauty of the countryside’ is not directly relevant in this case. I also accept that it is more appropriate to define the character of the site in terms of townscape rather than ‘pure’ landscape. However, irrespective of the terminology used, there is not a great difference between the main parties on the assessment of impact likely to be caused by the development.

30. The Council concludes a Moderate/Major Adverse impact on landscape character of the site on completion of development, but a Moderate Adverse impact on the wider area. I agree with the appellants that the latter judgement is the more relevant. Any development of a greenfield site is likely to have a marked impact on the character of the site itself, but at landscape/townscape scale a more tempered judgement is possible. The appellants’ assessment at this scale is effectively Minor/Moderate Adverse on completion, reducing to Minor Adverse after 15 years.

31. The minor difference in outcome appears to stem largely from the differing assessment of the sensitivity of the site, particularly in terms of its value. It is common ground that formal designation is not a prerequisite of value. Of the factors that influence value stressed by the Council, I find that too great a weight has been placed on the site’s rarity. The survival of the fields in recognisable form within the urban area has been unusual, and Bailey’s Tump provides a unique feature, but the site as a whole does not have the status of a rare landscape/townscape. The evidence also suggests that open space within the town is not rare, even in the immediate vicinity of the site.

32. The Council has also sought to put weight on the site’s value to local people as a recreational resource. Although the Council has maintained a neutral stance on the Village Green application, evidence was quoted from that application of the claimed usage of the fields. Further evidence from the Village Green Inquiry was provided by local people and landowners’ submissions by the appellants.

33. This planning appeal cannot duplicate the Village Green application process. It may well be the Village Green decision will validate the claims of prolonged extensive usage of the land. But in determining the value of the site for the purposes of landscape/townscape impact, I give greater weight to the known current position, where access to Bailey’s Tump is freely available by licence, while access through the heart of the site is via the defined PROW and onto the fields only by permissive paths. I do not doubt that the site is appreciated by many for its open green nature, but as a recreational resource its usage appears to be considerably more limited. Compelling evidence was given on behalf of the landowners that the degree of active use of the fields on the day of the appeal site visit was not in any way typical.

---

8 NPPF paragraph 17
34. The planning history of the site does not provide strong evidence of its recreation value. After being allocated in the 1998 LP, it appears that only a change in national guidance prevented an intended planning permission from being issued, and that the allocation lapsed in the subsequent plan only because other more suitable sites were available. The Council has not clearly explained why the site was downgraded from Priority 1 in the sift of sites for the recently abandoned replacement LP. Almost all the area now proposed for building would lie within the ‘best landscape fit’ zone identified by the Council’s LVIA of potential housing sites.

35. In considering impact, it must be noted that access to Bailey’s Tump and the PROW would be maintained by the appeal proposal, but that over half of the total site area would remain as undeveloped green space, and that public access onto or through that space, subject to ecological considerations, would be formally granted in perpetuity. This enhanced level of public access would provide a considerable degree of mitigation of the loss of some of the open fields.

36. Further mitigation would be provided by the implementation of ecological enhancement, including the strengthening of the existing landscape infrastructure, in the form of hedgerows and scrub habitat, and the creation of a properly managed hay meadow and pond habitats. There is no clear evidence to support a concern that 110 units could not be accommodated on the site without causing harm to other interests. The Testing Layout provides one potential solution, but further variation could arise at reserved matters stage.

37. For these reasons, I consider the appellants’ conclusion of a Minor Adverse landscape/townscape impact after the site was fully established to be a reasonable assessment.

Visual impact

38. The LVIA assessed the proposal’s visual impact at a set of 11 representative short-range and long-range viewpoints. The Council has not questioned the selection of viewpoints, and its assessment of impacts does not differ greatly from the appellants’.

39. Of the viewpoints that are disputed, I agree with the appellants that the effect on long-distance views from the south would be so minor as to be virtually Negligible. The site appears in these views as a tiny part of the townscape mosaic and would not be significantly altered by the introduction of built development.

40. I also agree that the effect on receptors at Bull Lane would be no worse than Moderate Adverse. This view would continue to look onto open meadow, with enhanced habitat planting, while the proposed housing would be well set back behind the retained and strengthened hedgerow and the retained TPO trees.

41. The appellants acknowledge that the LVIA’s forecasts of Major Adverse visual impacts from other close-range viewpoints would be largely borne out, at least on completion of the development. I accept their proposition that this is a virtually inevitable consequence of any major residential development of a greenfield site, surrounded by receptors of high sensitivity.

42. I also accept that these impacts would be mitigated to some degree by the proposed layout and design principles set out in the Parameters Plan. In
particular the retention of much of the northern field as open space and meadow, and the lower levels and restricted ridge heights of the proposed housing, would greatly reduce the impact on the open views to the south from Asker Lane. The submitted semi-verified visualisation sketch shows that the proposed houses would undoubtedly be prominent in the view, but that the visual links with the distant hilltops should be sustained. As the proposed landscape structure planting matured, the impacts, particularly on those using the PROW and secondary paths, should be considerably softened, and assessed as Moderate Adverse in most instances.

Conservation area

43. The small parts of the Matlock Bank CA to the east of Chesterfield Road form the fringe of the CA, and are described in the Council’s published Conservation Area Appraisal (‘CAA’). They comprise the small pocket of older housing at the junction of Asker Lane and Chesterfield Road and the convent buildings and grounds. In my view, their main contribution to the significance of the CA is to reinforce the character of Chesterfield Road, where there are buildings of some historic interest on both sides of the road, and to add the townscape value of those buildings and their surrounding spaces and mature trees.

44. The small triangle of space at the junction of the convent access road lies within the appeal site. The Parameters Plan and IMP indicate that this would remain as open space with existing trees and path retained. The access road would need to be slightly altered and its usage would increase but its character would not be affected. In accordance with the duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I find that the character and appearance of the CA would be preserved by the appeal proposal.

45. The remainder of the appeal site lies outside the CA boundary. The fields, particularly the westernmost field, which adjoins Chesterfield Road, and the northern field next to Asker Lane, form part of the setting of the CA. The concept of the setting of a conservation area is not enshrined in the legislation and does not attract the weight of statutory protection. The NPPF advises that the setting of a heritage asset can contribute to its significance, and that opportunities should be sought for new development within conservation areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset.

46. In this case, the CAA notes that the stone boundary wall and fields help to give a semi-rural character to this stretch of Chesterfield Road, and records the availability of views to the east. However, it is notable that these factors were not considered important enough to require inclusion of the fields, or at least the roadside field, within the CA. The fields provide only a short element of the eastern edge of the CA. I consider that the open edge offered by the setting makes a very modest contribution to the character of the CA as an area of architectural or historic interest.

47. The notional layout indicated on the IMP for the Chesterfield Road field, with rows of houses at right angles to the road, would reflect a pattern of development noted by the CAA on the opposite side of the road and also evident just to the north of the appeal site. In response to the Council’s concern about this possible form, as expressed in the original officer report, the Testing Layout and supporting evidence shows how a row of houses along the
road front, based on nearby recent precedent, could also provide a form of development in keeping with the area. The Parameters Plan and IMP notional layout show that the Asker Lane field would remain largely as green space, and that the potential new houses would not adversely affect the setting of the CA.

48. There are sufficient grounds to conclude that the effect on the significance of the CA owing to the change in setting would not be harmful. The Council acknowledges that harm to the character and appearance of the CA or its setting did not form part of the reason for refusal.

Conclusion on character and appearance

49. I conclude that once the proposed development was fully established, there would be a minor adverse long-term effect on landscape/townscape character, and that short-range visual impacts should be mitigated to produce for the most part no worse than moderate adverse effects, some of which would be a virtually inevitable consequence of major development.

50. There should be no harm to the significance of the Matlock Bank CA, either from development within the CA boundary or within its setting.

Other matters

Highways

51. Concern has been raised by some local residents, including some with highway engineering experience, about a potential safety risk of increased use of the Asker Lane/Chesterfield Road junction arising from the proposed access onto Asker Lane. I acknowledge the difficult geometry and gradients in the vicinity of the junction and have noted peak hour traffic volumes on my visits to the site. But the operation of the junction post-development, and of the other Chesterfield Road junction, have been professionally set out in the updated Transport Assessment, and I have no reason to believe that this has not been carefully assessed by the highway authority in accordance with recognised standards. In the absence of any objection by the highway authority it would be very difficult to justify rejection of the proposal on this ground, or the restriction of any permission to omit this intended access point.

52. The potential access points currently indicated are therefore sufficient to satisfy the requirements of an outline planning permission. But the matter of access is now reserved for later approval, which would allow detailed consideration of the precise arrangements proposed, including review of the need for two points of access and for enhanced pedestrian links outside the site. The Testing Layout has already suggested how the road layout and footpath links might vary from the IMP.

Nature conservation

53. The planning application was supported by specialist surveys and by an ecological mitigation strategy and a badger mitigation strategy, which was later updated for the appeal. The mitigation measures would include meadow planting and management, including the creation of a small hay meadow, enhancement and planting of hedgerows, scrub planting to enhance badger foraging habitat and creation of pond habitats.
54. As consultant to the Council, Derbyshire Wildlife Trust had advised that, on the basis of the IMP and subject to implementation and later management of the identified mitigation measures, the proposal’s impacts on wildlife and nature conservation would be acceptable and would comply where relevant with Natural England (‘NE’) guidance. Considerable weight must be given to this expert advice, which would not in my judgement be undermined by the later illustrative Testing Layout.

55. Although a constituent body of the DWT, the Mid Derbyshire Badger Group had maintained consistent opposition to the proposal, which was sustained at the Inquiry. I recognise the Group’s specialist knowledge and the commitment of its volunteer members, and I accept that the introduction of new housing within the established badger territory would bring the risk of future conflicting demands of animals and residents, which would require ongoing management.

56. But the mitigation strategy presents a well reasoned approach to minimising adverse effects, both during construction and later. The appellants confirmed that the proposed 30m protection distance around the main badger sett would meet the NE recommendation and that movement routes would be maintained through the site and to the foraging grounds to the south of the convent. The Group’s concern about the need to expand territory into the adjoining Lumsdale area might not be borne out. It was agreed that NE would be likely to license closure of outlier setts that were not in use. I find that the evidence does not support rejection of the appeal proposal because of adverse effect on this species.

57. I am also satisfied that the TPO trees would be protected and that the retention and enhancement of hedgerows and other vegetation on the site should be effective, subject to detailed design and management. This, combined with other direct enhancement measures, should adequately mitigate the effects of development on breeding birds that are found on the site, including some identified by local residents as Red and Amber List species.

58. The detailed implications for nature conservation would be subject to further review at submission of reserved matters, but at this stage the evidence suggests that suitable protection and mitigation could be secured by the use of planning conditions.

Heritage

59. Bailey’s Tump is a notable feature of the landform, whose origins already gave it some historic interest before its significant wartime role. Although not formally recognised by the Council in any published policy document, I consider that the feature readily meets the definition of a heritage asset set out in the NPPF.

60. In determining an application, the NPPF advises that the effect on the significance of a non-designated heritage asset should be taken into account and a balanced judgement made having regard to the scale of any harm or loss.

61. As outlined at the Inquiry on behalf of the Matlock Civic Association, the location of Bailey’s Tump, with an open line of sight to the skies above the Derwent Valley, was key to its function in air defence. The feature’s prominence in its setting therefore contributes to its heritage significance.
However, it is already flanked by modern housing on Bull Lane and Asker Lane, and so is not remote from development.

62. The proposed development, as governed by the Parameters Plan and potentially indicated by the IMP, would preserve the widening arc of open land to the south of Bailey’s Tump. The key view from the remains towards the valley would not be interrupted, with the new housing kept to the side behind a mature hedgerow. The land to the west would form open space and the proposed hay meadow, allowing the three-dimensional form of the feature to be appreciated. For these reasons, I consider that there would be a very limited adverse effect on the significance of Bailey’s Tump as a heritage asset.

**Balance of considerations**

63. The NPPF seeks to boost significantly the supply of housing. There is no dispute that the Council’s five year supply is lacking. Evidence on the objective assessment of housing need leading to the withdrawal of the intended replacement LP suggests that the future housing requirement is likely to be considerably greater than previous estimates. The contribution to meeting the shortfall in supply lends substantial weight in support of the proposal.

64. The provision of some 49 units of affordable housing would also help to address an identified need, and is a consideration of positive weight, even if the level of proposed provision would not exceed the requirements of development plan policy.

65. There would thus be clear evidence of the social dimension of sustainable development. Further social benefits would be gained by permanent public access to a range of open spaces in the northern and eastern parts of the site.

66. The economic dimension would be illustrated by the employment generated during construction, by the addition to the local economy of the spending power of future residents and by the one-off financial gains of the New Homes Bonus. These economic factors add moderate weight in support of the proposal.

67. In environmental terms, the site would be well placed for future residents to avail of sustainable transport and access the facilities of the town centre, although less attractive for trips on foot or cycle owing to local topography.

68. The currently green and open character of the site at the urban edge would be partly replaced by development. This would result in minor harm to townscape character and moderate adverse visual impacts on close-range views. The Council officers’ assessment of the second planning application confirmed that future housing requirements would require the use of greenfield sites. The adverse effects of development could be at least partly mitigated by successful landscape infrastructure and detailed design and layout, secured at the reserved matters stage. There would also be some enhancement of biodiversity by the introduction of water features and other improvements, while harm to protected species on the site should be minimised.

69. The character and appearance of the Matlock Bank CA would be preserved and there would be very limited harm to the heritage significance of Bailey’s Tump through the development within its setting.
70. On balance, any remaining environmental harm would not significantly and demonstrably outweigh the benefits of development. In accordance with NPPF guidance, the proposal must be regarded as sustainable development to which the presumption in favour applies.

**Conditions**

71. A schedule of suggested conditions was presented at the Inquiry, and was later amended following further discussion between the main parties. Most of the proposed conditions were agreed but some remained in dispute. It was agreed that details of floor levels could be left for later approval as part of the reserved matters. I have adapted the other proposed conditions, subject to some amalgamation to avoid duplication and to some amendment in the interests of precision and enforceability, for the schedule attached to this decision. I consider that the amended conditions would all be reasonable and necessary and would comply with the requirements of the NPPF and the advice of the PPG.

72. In addition to standard conditions on the submission of reserved matters and the commencement of development, a specific condition is required to ensure that the final form of development is controlled by adherence to the parameters of layout and landscaping set out on the Parameters Plan, in order to protect the landscape infrastructure and ecological value of the site. For the same reason, specific details are required on the protection of trees and the implementation of landscaping.

73. Approval of surface water drainage is required to minimise the risk of flooding and ensure the implementation of sustainable means of drainage. Further archaeological investigation is necessary, based on the results of the earlier desk-based study, in order to protect the heritage significance of the site.

74. A set of conditions on wildlife and biodiversity is necessary to ensure mitigation of the effects on the ecological interest of the site and delivery of a programme of enhancement measures. These would include approval of updated mitigation strategies for the effect on badgers and on general ecological interest, which would inform specific plans to mitigate effects at construction stage and in the long term management of the site. I have sought to combine and simplify several overlapping proposed conditions on this topic.

75. The limitation of working hours is justified by the need to protect the living conditions of adjoining residents. The approval and implementation of play and amenity areas is required to ensure an adequate standard of leisure provision for future residents.

76. The conditions on access are appropriate to the level of detail at this stage, when access has now been reserved for future detailed approval. The conditions sought by the highway authority on the design of junctions would not therefore be justified. Approval and implementation of a Travel Plan and the improvement of the PROW are justified in the interests of promoting sustainable modes of travel.

**Unilateral undertaking**

77. Following submission of the revised draft UU, the Council provided a Section 106 Justification Statement which sets out the background to each of the
obligations sought, and which formed the basis of discussion of the UU at the Inquiry.

78. The UU as finally completed by the landowners allows for 25% of the dwellings on the site to be provided as affordable housing, for the timing of their provision and transfer to a registered provider, and for definition of the numbers, type and location of the affordable units and the control of their future occupation. A financial contribution would fund provision off-site of the equivalent of a further 20% of units. The Council has confirmed that these provisions would accord with its normal requirement, based on LP and NPPF policy and the level of unmet need in the district. No concern has been raised about effect on viability.

79. The appellants accept that the proposed on-site provision for open space and play space would not accord with the provisions of LP policy L6. A financial contribution would be directed towards the improvement of young children’s play at Hazel Grove, Matlock and older children’s play and sports provision at Hurst Farm Park, Matlock. The Council has confirmed that the proposed provision would address policy requirements and that fewer than five planning obligations have been entered into in respect of these facilities since the operative date of 6 April 2010 set by the Community Infrastructure Levy (‘CIL’) Regulations 2010.

80. A contribution towards the highway authority’s monitoring of the Travel Plan was agreed to be justified to ensure the promotion of sustainable transport, in accordance with NPPF policy. It was confirmed that this was a specific project that had not attracted any previous contributions through planning obligations.

81. I am satisfied that each of these obligations would comply with the requirements of the CIL Regulations and with the tests set out in paragraph 204 of the NPPF and with the advice of the PPG. The obligations can be fully taken into account in support of the appeal proposal.

82. The UU also includes an obligation to pay a contribution of £113,990.01 to Derbyshire County Council towards the provision of places at Castle View Primary School. The appellants have made clear that although the obligation has been given they do not consider it to be justified. The provisions of the UU allow that any obligation will cease to have effect if found by the Inspector not to be a material consideration or not to attract weight or to fail to comply with the CIL Regulations.

83. There is no dispute over the estimated demand of 22 primary school places likely to be generated by the development. The County Council has confirmed that the local school currently has capacity for 40 places, but anticipates 28 of these to be taken by projected demand over the next five years, leaving only 12 available for children from the appeal proposal. The request for funding is based on a shortfall of 10 places, using a set multiplier.

84. I do not endorse the appellants’ argument that the issue must be decided solely on the availability of places at this moment. Were there firm commitments that already had a call on currently available capacity, the County Council’s reasoning could perhaps be upheld. But there is no evidence of the nature of the projections relied upon by the County Council, whose

---

9 The Community Infrastructure Levy Regulations 2010 (SI 2010 No. 948)
methodology has not been fully transparent and is not set out in an adopted policy document before the Inquiry. The District Council referred to several potential housing developments within the school catchment, but the majority of these appeared to be awaiting completion of planning obligations. Therefore, it is not clear why they should have a prior call on any available capacity for school places.

85. I conclude that it has not been shown that the appeal proposal would place an unacceptable demand on education provision, such that this obligation would be necessary to make the development acceptable in planning terms. The obligation would not comply with the CIL Regulations or meet the tests of the NPPF, and cannot be given weight as a material consideration in support of the grant of planning permission.

Conclusion

86. For the reasons set out above, and having taken careful account of the submissions made in writing and at the Inquiry and of the allowable obligations of the submitted UU, I conclude that the appeal should be allowed and outline planning permission granted subject to conditions.

Brendan Lyons
INSPECTOR
Annex

Appeal Ref: APP/P1045/A/14/2227116

Land at Asker Lane, Matlock, Derbyshire

Schedule of conditions Nos. 1-19

1. Details of the access, layout, scale, appearance and landscaping (hereafter referred to as the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

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

3. Any application for the reserved matters approval of the layout or landscaping of the site shall accord with the general parameters shown on the submitted Parameters Plan Ref BIR.4029_12D.

4. Any application for the reserved matters approval of the layout of the site shall include an accurate survey showing all trees on and adjacent to the site within falling distance of areas where building/engineering works are proposed. Each tree on the plan shall be numbered. The site survey should show the following details:
   a) the positions of the trees and their crown spreads;
   b) the species of each tree;
   c) which trees are to be retained and which removed;
   d) the position of all hard surfaces and the siting of the works compound;
   e) the position and depth of all existing and proposed services.

5. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted in the same location and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the Local Planning Authority.

No equipment, machinery or materials shall be brought onto the site for the purpose of development until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction -Recommendations has been submitted to and approved in writing by the Local Planning Authority. The protective fencing shall be erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and
surplus materials required for the purpose of the development have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those fenced areas shall not be altered, nor shall any excavations be made, without the prior written consent of the Local Planning Authority.

In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars, and the first and second paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later.

6. No development shall commence until a Landscape Management Plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), has been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be carried out as approved. The Management Plan shall include the following elements:

   a) details, extent and type of new planting, which shall be of native species;
   b) details of maintenance regimes;
   c) details of treatment of site boundaries and buffers around water bodies;
   d) details of management responsibilities.

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

8. No development shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency and LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall demonstrate:

   a) surface water drainage system(s) designed in accordance with CIRIA C697 and C687 or the National SuDS Standards, should the latter be in force when the detailed design of the surface water drainage system is undertaken;
   b) details to show the outflow from the site is limited to Greenfield QBAR rate for all events including the 100 year return period plus 30% (for climate change)
c) provision of surface water run-off attenuation storage in accordance with the requirements specified in ‘Science Report SC030219 Rainfall Management for Developments’;

d) detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods;

e) details about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters to include a timetable for its implementation;

f) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

9. No development shall commence until a Written Scheme of Investigation for archaeological work has been submitted to, and approved in writing by, the Local Planning Authority; and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include:

a) an assessment of significance and research questions;

b) a programme and methodology of site investigation and recording;

c) a programme for post investigation assessment;

d) provision to be made for analysis of the site investigation and recording;

e) provision to be made for publication and dissemination of the analysis and records of the site investigation;

f) provision to be made for archive deposition of the analysis and records of the site investigation;

g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the archaeological Written Scheme of Investigation and the development shall not be occupied until the site investigation and post-investigation assessment have been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation, and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

10. No development shall commence until a further badger survey is undertaken and an updated Badger Mitigation Strategy based on the further survey has been submitted to and approved in writing by the Local Planning Authority. The
development shall be implemented in accordance with the approved Badger Mitigation Strategy.

11. No development shall commence until an updated Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include a habitat mitigation and enhancement/creation/management plan setting out in detail how the areas of land to the north (northern hay meadow) and east of the site will be enhanced.

12. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) based on the Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include measures and work practices to ensure the protection of important features, including badger setts and hedgerows, and the location and timing of works to avoid harm to biodiversity, in particular breeding birds. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

13. No development shall commence until an Ecological Management Plan (EMP) for the site based on the Ecological Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The approved EMP shall include aims and objectives of management and options for implementation of actions and work schedules, together with details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured and the management body responsible for its delivery, monitoring mechanisms and contingency/remedial actions. The EMP shall be implemented and monitored as approved.

14. No works of construction shall take place on the site outside of the hours of 08.00 to 20.00 on Mondays to Fridays, 09.00 to 13.00 on Saturdays and not at any time on Sundays or Bank Holidays.

15. No dwelling shall be first occupied until a scheme for the laying out and equipping of amenity spaces and a children’s natural play area, to include landscaping, boundary treatment and provision for future maintenance and safety checks of the areas and equipment together with the triggers for the laying out of this area, have been submitted to and approved in writing by the Local Planning Authority. The amenity areas and natural play area shall thereafter be laid out, and in the case of the play area, equipped with natural play facilities, in accordance with the approved scheme.

16. The sole means of vehicular access to the site shall be from Asker Lane and Chesterfield Road only in accordance with the Parameters Plan. No more than 35 no. dwellings shall be occupied off each access point unless an internal estate street link linking the two access points together has been provided and made available to two-way traffic and retained thereafter.

17. No dwelling shall be occupied until a pedestrian route audit has been undertaken to establish the need for a pedestrian crossing facility across the A632 Chesterfield Road in the vicinity of the site. If the conclusions of this audit require a pedestrian crossing facility then details of its location and construction shall be submitted to and approved in writing by the Local Planning Authority and it shall be constructed in accordance with the approved details prior to the occupation of the 50th dwelling.
18. No dwelling shall be occupied until details of improvements to the existing public right of way (FP8), in terms of construction quality and lighting, has been submitted to and approved in writing by the Local Planning Authority. The improvements shall be implemented in accordance with the approved details prior to the occupation of the 50th dwelling.

19. No dwelling shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out measures to promote travel by sustainable modes and shall be implemented in accordance with the timetable set out therein. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually to the Local Planning Authority for approval, on each anniversary of the date of the planning permission, for a period of five years from first occupation of the development.
APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Cairnes of Counsel Instructed by Head of Legal Services, Derbyshire Dales District Council

He called:
Carl Taylor Director, TPM Landscape
BA(Hons) DipLA CMLI
Susan Crowley Principal, Crowley Associates
BA(Hons) DipTP MRTP
With discussion of conditions and obligations by:
Gareth Griffiths Planning Officer, Derbyshire Dales DC
Paul Wilson Corporate Director, Derbyshire Dales DC

FOR THE APPELLANT:

Satnam Choongh of Counsel Instructed by David Stentiford, Pegasus Group

He called:
Jeffrey Kirby Director, Just Ecology Limited
BSc MSc PhD CEnv FCIEEM
Andrew Williams Director, Define
BA(Hons) DipLA DipUD CMLI
David Stentiford Director, Pegasus Group
BA(Hons) BTP MRTP
With written evidence by:
Michael Carr Director, Pegasus Group
BA(Hons) DipLA DipUD RIBA

INTERESTED PERSONS:

Peter Wigglesworth Local resident
Michael Betteridge Local resident
Bernice Williams Local resident
Ken Parker Secretary, Matlock Civic Association
John Winnard Local resident
David Whyman Local resident
Irene Brierton Chair, Mid Derbyshire Badger Group
Christopher Judd Local resident, volunteer badger monitor
Sister Magdalen Presentation Sisters of the BVM, site owners

DOCUMENTS

1. Request to speak at Inquiry: Peter Wigglesworth
2. Request to speak at Inquiry: Michael Betteridge
3. Draft Unilateral Undertaking
4. Derbyshire Dales Local Plan 2005
5. Proof of Evidence of Jeffrey Kirby: Plan, Appendix 3
6. Local Plan extracts
7. High Court Judgement: *South Northamptonshire Council v Secretary of State for Communities and Local Government and Barwood Land and Estates Limited* [2014] EWHC 573 (Admin)
8. High Court Judgement: *Cheshire East Borough Council v Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP* [2015] EWHC 410 (Admin)
9. LVIA Comparison Schedules: Townscape and Visual Receptors
10. Opening Submissions on behalf of the Appellant
11. Opening Statement on behalf of Derbyshire Dales District Council
12. Schedule of Saved LP Policies
13. Village Green Application Inquiry: Closing Submissions on behalf of the Objector
14. Matlock Bank Conservation Area Appraisal extract
15. Draft Schedule of Conditions
16. Costs Application on behalf of the Appellant
17. Illustrative Master Plan Ref BIR.4029_07-1G
18. Derbyshire Wildlife Trust letter to Council dated 21 October 2014
19. Badger Survey plans
20. Minister of State letter
21. Bird Survey summary tables
22. Statement: Michael Betteridge
23. Statement: Bernice Williams
24. Village Green Application Inquiry: File of Evidence
25. Statement: Ken Parker
26. Statement: John Winnard
27. Costs Decision: Appeal Ref APP/A0665/A/13/2193956
28. Village Green Application Inquiry: Closing Submissions of the Applicant
29. The Landscape Character of the Derbyshire Dales: Extracts
30. Statement: David Whyman
31. Plan of proposed Site Visit route
32. Section 106 Justification Statement
33. Council’s Analysis of Open Space Assessment
34. Council’s Response to Costs Application
35. Village Green Application Inquiry: John Winnard letter and Witness Statement
36. Unilateral Undertaking: Completed copy
37. Draft Schedule of Conditions: Amended
38. Parameters Plan Ref BIR.4029_12D
39. Closing Statement on behalf of Derbyshire Dales District Council
40. Closing Submissions on behalf of the Appellant
Appeal Decision

Site visit made on 16 June 2015

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

Decision date: 24 June 2015

Appeal Ref: APP/P1045/W/15/3003683
Land adjacent to 11a Little Bolehill, Bolehill, Wirksworth DE4 4GR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr D Sheldon against the decision of Derbyshire Dales District Council.
- The application Ref 14/00760/VCOND, dated 3 November 2014, was refused by notice dated 15 January 2015.
- The application sought planning permission for retention of access track at field OS3677 Little Bolehill without complying with a condition attached to planning permission Ref 09/00085/VCOND, dated 7 May 2009.
- The condition in dispute is No. 4 which states that: The existing boundary planting along the access shall be removed and/or replaced with the native hedge planting within the first planting season after the date of this permission in accordance with the details submitted in the agent’s letter dated 21 April 2009 and shall be retained as such for the life of the development.
- The reason given for the condition is: To ensure the satisfactory appearance of the development to comply with policies SF4, NBE8, NBE21 and NBE26 of the adopted Derbyshire Dales Local Plan (2005).

Decision

1. The appeal is allowed and planning permission is granted for an access track on land adjacent to 11a Little Bolehill, Bolehill, Wirksworth DE4 4GR in accordance with application Ref 14/00760/VCOND made on the 3 November 2014 without compliance with condition number 4 previously imposed on planning permission Ref 09/00085/VCOND dated 7 May 2009 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:

- Within the first planting season after the date of this decision, the existing boundary planting along the access shall be supplemented with native hedge planting in accordance with the details submitted in the agent’s letter dated 21 April 2009 and shall be retained as such for the life of the development.

Preliminary Matters

2. Planning permission was originally granted for an agricultural access track on the appeal site in 1999 subject to two conditions, one of which was that the track and its immediately adjoining banks shall be maintained with grass-
covered surfaces in perpetuity. Whilst that permission was retrospective, and the track is still clearly in situ, “retention” is not an act of development and I have, therefore, amended the description of development in my formal decision above accordingly.

3. It seems that a somewhat different track was constructed than had been permitted, and a conifer hedge planted along one side of it which, according to the Council, was contrary to one of the conditions imposed in 1999. Following negotiations between the appellant and the Council, a new permission was granted in 2008, subject to different conditions, which had the effect of authorising a compacted stone track with a central grass strip and stone edgings. One of the conditions required the conifer hedge to be removed and/or replaced with planting of native hedge species. In 2009, a further planning permission was granted, again to vary some of the earlier conditions.

4. Condition 4 attached to the 2009 permission is what is in dispute in this appeal. It requires the removal of the conifer hedge and/or its replacement with a native hedge as described in a letter submitted as part of the application. The appellant wishes to vary the condition to allow the existing conifer hedge to be retained and for it to be supplemented with native hedge planting.

5. Whilst not directly related to this appeal, I am aware that there have been a number of other planning decisions relating to the site in recent years, including appeals, and that the agricultural building that is served by the access track is currently in the process of being converted to a business use under permitted development rights.

Main Issue

6. The main issue is the effect that varying the condition would have on the character and appearance of the area.

Reasons

7. The appeal site is a field located just to the south of the main built up area of the village of Bolehill on the hillside that slopes down towards Wirksworth in the valley bottom to the west. The site rises steeply from Little Bolehill, which is a narrow no through road, before reaching a small plateau upon which the existing agricultural building is situated. The access track zig zags up the hill and the conifer hedge, which is several metres tall, runs for around 50 metres along the western side of a section of it in the central area of the site. Parts of the site, and surrounding hillside, are covered with mature, mainly deciduous, trees. On the opposite side of Little Bolehill, and immediately to the south of the site, are a few stone cottages with associated gardens. The lane comes to an end a short distance to the south of the site.

8. Parts of the settlements of Wirksworth and Bolehill, along with some of the adjoining undeveloped land, are designated conservation areas. The site is included in the Wirksworth conservation area, but also adjoins the Bolehill
conservation area. By virtue of forming part of the attractive hilly countryside between the two settlements, the site makes a positive contribution to the character and appearance of the Wirksworth, and the setting of the Bolehill, conservation areas. In accordance with the relevant statutory duty and national planning policy\textsuperscript{5}, I attach great weight to the desirability of preserving or enhancing the character and appearance of those designated areas.

9. The modest, stone surfaced access track is in keeping with other such driveways and roads in the rural area and is not unduly prominent on the hillside. However, it is visible from Little Bolehill and it is understandable why the Council has sought to ensure that it is appropriately designed and landscaped.

10. Whilst the conifer hedge is of a type much more frequently found around residential properties than on agricultural land, it is seen against the background of the hillside and deciduous woodland, and in the context of the nearby dwellings. I am also mindful that the appellant has recently planted other conifer trees on the site above the track, and as these mature they will form part of the visual setting for the disputed hedge.

11. In light of the above, and the fact that the hedgerow is unlikely to be at all noticeable in long distance views from Wirksworth or the other side of the valley, it has a negligible effect on the quality of the local environment. The planting of a native hedgerow alongside the existing conifers would ensure that the character and appearance of the conservation areas and wider countryside would be preserved.

12. I therefore conclude that, provided a condition similar to that suggested by the appellant were to be imposed, the disputed condition is not necessary to make the proposed access track acceptable in planning terms having regard to the statutory duty relating to conservation areas, national policy\textsuperscript{6} and policies SF4, NBE8 and NBE21 of the Derbyshire Dales Local Plan 2005 which collectively recognise the intrinsic character and beauty of the countryside, seek to preserve or enhance valued landscapes, local distinctiveness, and the historic environment, and ensure proposals are appropriate in nature and scale to a rural area.

**Conclusion**

13. For the reasons given above, I conclude that the appeal should be allowed and the planning permission varied as indicated above.

**William Fieldhouse**

INSPECTOR

\textsuperscript{5} Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and National Planning Policy Framework (NPPF) paragraph 132.
\textsuperscript{6} NPPF paragraph 17, 5\textsuperscript{th} bullet point, and paragraphs 109, 132 and 137.