26 October 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 03 November 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 1.00pm 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 – 13 October 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. 15/00659/OUT (Site Visit) 5 – 11
Erection of single dwelling on side garden (outline) at Eversleigh Rise, Darley Dale

4.2 APPLICATION NO. 15/00563/FUL (Site Visit) 12 – 17
Erection of two camping pods at Hoe Grange, Brassington

4.3 APPLICATION NO. 15/00394/LBALT (Site Visit) 18 – 24
Conversion and alterations of Mill to office/light industrial use at Haarlem Mill, Derby Road, Wirksworth

4.4 APPLICATION NO. 15/00395/FUL (Site Visit) 25 – 40
Conversion and alterations of Mill to office/light industrial use and erection of 30 dwellings and associated infrastructure and access at Haarlem Mill, Derby Road, Wirksworth

4.5 APPLICATION NO. 15/00382/FUL (Site Visit) 41 – 45
Ventilation unit, satellite dish, condensing boiler flue, decking and trellis (part retrospective) at Malthouse, 13A North End, Wirksworth

4.6 APPLICATION NO. 15/00267/OUT (Site Visit) 46 – 55
Erection of single storey dwelling (outline) at Riber Lea, 33A Starkholmes Road, Matlock

4.7 APPLICATION NO. 15/00282/FUL (Site Visit) 56 – 66
Erection of replacement dwelling and garage and retention of existing dwelling as ancillary accommodation at Pinetrees, Upper Lumsdale, Matlock

4.8 APPLICATION NO. 15/00429/FUL 67 – 73
Erection of agricultural storage building at land adjacent to 11 Little Bolehill, Wirksworth

4.9 APPLICATION NO. 15/00580/FUL 74 – 82
Demolition of garages and erection of four dwellings at Luke Lane Garage Courtyard, off The Plain, Brailsford
4.10 APPLICATION NO. 15/00598/FUL
Conversion and redevelopment of former school to create extra care community facility – revised design of residential block C comprising 20 units and 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), Jason Atkin, Richard Bright, Sue Burfoot, Sue Bull, Albert Catt, Tom Donnelly, Graham Elliott, Richard FitzHerbert, Helen Froggatt, Neil Horton, Tony Morley, Mike Ratcliffe, Lewis Rose OBE, Peter Slack and Andrew Statham.

Substitute Members
Deborah Botham, Jennifer Bower, Martin Burfoot, Phil Chell, Ann Elliott, Chris Furness, Alyson Hill, Angus Jenkins, Vicky Massey, Jean Monks, Joyce Pawley, Mark Salt, Andrew Shirley, Jacquie Stevens, John Tibenham, Jo Wild

SITE VISITS
Members will leave the Town Hall, Matlock at 1.00pm prompt for the following site visits:

1.15pm Application No. 15/00659/OUT
9 EVERSLEIGH RISE, DARLEY BRIDGE
Requested by Ward Member to assess the impact of the proposed dwellinghouse on the character and appearance of the area.

1.45pm Application No. 15/00563/FUL
HOE GRANGE, BRASSINGTON
Requested by Officers to enable Members to appreciate the location of the site and the impact of the development on the local landscape.

2.10pm Application No's. 15/00394/LBALT & 15/00395/FUL
HAARLEM MILL, DERBY ROAD, WIRKSWORTH
Requested by Ward Member to assess the impact of the proposals on the character, appearance and setting of the Grade II* listed Mill buildings and upon the character and appearance of the area.

2.55pm Application No. 15/00382/FUL
MALTHOUSE, 13A NORTH END, WIRKSWORTH
Requested by Ward Member to assess the impact of the proposals on the character and appearance of the conservation area, the setting of the listed buildings and the amenity of neighbouring residents.

3.25pm  
**Application No. 15/00267/OUT**  
BALL TO THE REAR OF RIBER LEA, 33A STARKHOLMES ROAD, MATLOCK

Requested by Officers to consider the landscape impact of the proposed development.

3.50pm  
**Application No. 15/00282/FUL**  
PINETREES, UPPER LUMSDALE, MATLOCK

Requested by Ward Member to assess the impact of the proposal upon the character and appearance of the Lumsdale Conservation Area and the Scheduled Ancient Monument

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.
9 Eversleigh Rise, Darley Bridge

Derbyshire Dales DC

Date: 22/10/2015

100019785
THE SITE AND SURROUNDINGS:
The property consists of a dwellinghouse set back from the east side of road within the settlement of Darley Bridge. The property has a large rear garden and a garden area to its north west side. The front and rear gardens are separated for the large part by the car park serving the Three Stags Heads public house.

The application site is currently screened behind a tall Leylandii hedge. Along the northern boundary of the side garden are a number of trees, including a pair of mature Pine trees close to the highway which attain a height of 12–14m and which overhang the site by approximately 7m. The Pine tree adjacent to the north-east corner of the garden has suffered extensive storm damage.

To the front of site, at the back edge of the pavement, is a Pine tree approximately 30-40 years of age which attains a height of circa 10m. In addition, there is a mature Beech tree just within the neighbouring property which is also adjacent to the pavement.

THE APPLICATION:
Outline planning permission is sought for the erection of a detached dwellinghouse. Means of access to the dwelling is detailed via a relocated 5.5m wide access. Whilst all other matters are reserved from consideration, the applicant has nevertheless submitted an indicative plan detailing the provision of a dwellinghouse on the front/side garden to the north of the existing dwellinghouse (some 300sqm curtilage).

The applicant has advised that the dwellinghouse would be a 3-4 bedroomed property and would be two storey in height with a floor area of approximately 90sqm. It is anticipated that the dwelling would be constructed with natural gritstone and blue slate.

With regard to the impact on trees and landscaping, the applicant identifies two pine trees, one he advises is suffering from severe wind damage, and a small oak, replanted as a replacement to a protected tree are within the confines of the application plot. The applicant considers that the presence of the trees will not be threatened with removal due to overshadowing. The two pines are considered to have little impact being to the north of the plot, and the oak tree could be relocated although the proposed house would be some 8m away and, with careful management, could be an attractive feature. With regard to access visibility, the width of the highway verge avoids any necessity to remove trees.

The applicant has submitted an ecology report to demonstrate the proposal will not have an impact on great crested newts; this was an issue raised on a previous application.

The applicant advises that the site can be readily and quickly developed to help address the District Council’s shortfall in housing land supply and would be contained within the Settlement Framework boundary proposed with the emerging Local Plan.

RELEVANT HISTORY:
15/00660/OUT Erection of single dwelling on rear garden (Outline) – Granted
15/00295/OUT Erection of 3 dwellings – Refused – Appeal to be determined
14/00650/OUT  Erection of 3 dwellings – Refused
05/00975/FUL  Erection of dwellinghouse and associated access – Refused.
DDD/0998/0603  Erection of dwelling (outline) – Refused
WED/0291/0162  Erection of House (outline) – Granted
WED/381/222  Erection of dwelling (outline) - Granted

CONSULTATIONS:
Parish Council – Object:
- site is insufficient for the proposed development
- misgivings regarding parking provision

Local Highway Authority – No objection – refer to the comments submitted with the previous outline planning application.

REPRESENTATIONS:
One letter of representation from a neighbour. The comments can be summarised as follows:
- refer to comments on previous applications 14/00650/OUT and 15/00295/OUT as follows:
  - when did the area become available for development?
  - if allowed, should not extend beyond the rear building line
  - density too high
  - stretch of road suffers from parking problems
  - loss on street parking space would exacerbate problems
- unclear whether the latest two applications are alternative to each other or whether both could be allowed.

POLICIES:
1. Adopted Local Plan (2005)
   SF4  Development In The Countryside
   SF5  Design And Appearance of Development
   H9   Design And Appearance Of New Housing
   NBE5 Development Affecting Species Protected by Law Or Are Nationally Rare
   NBE6  Trees And Woodlands
   NBE26 Landscape Design In Association With New Development
   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. Background
   The applicant has recently submitted an application for a single dwellinghouse at the rear of the property. This was considered under delegated procedures and planning permission has been granted (ref: 15/00660/OUT).

Prior to the above, the applicant had outline planning permission refused for three dwellinghouses across the wider site area (ref: 15/00295/OUT) which is the subject of an Appeal application. The application was a resubmission of outline planning application 14/00650/OUT which had also been refused. The principal differences between the two
schemes were that the indicative sitings of the dwellinghouses were amended and the applicant has submitted a Protected Species Survey to seek to address previous concerns, particularly with regard to the possible presence of newts.

The applicant previously submitted a planning application for the erection of a dwellinghouse on the application site (ref: 05/00975/FUL). This was refused permission as the application site was outside of any settlement framework boundary and it was considered that the proposal would be likely to lead to the future loss of protected trees adjacent to the site on the northern boundary and prevent the satisfactory replanting of a replacement tree for a then recently felled protected tree on site due to the proximity of the proposed dwelling to those trees.

Prior to this, planning permission was refused for a dwelling on the plot (ref: DDD/0998/0603) as the proposed dwelling was considered likely to prejudice the survival of a protected horse chestnut tree (TPO No. 30) which made an important contribution to the area, and that it had not been demonstrated that a dwelling could satisfactorily be accommodated on the site.

However, it should be noted that outline planning permission (ref: WED/0291/0162) was granted for a single dwellinghouse on the land to the rear of the property, albeit no reserved matters application was submitted. Prior to this, outline planning permission (ref: WED/381/222) was granted for a single dwellinghouse.

2. Policy
At present, Darley Bridge does not have a Settlement Framework boundary and therefore the principle of residential development would be contrary to Policies SF4 and H4 of the adopted Derbyshire Dales Local Plan (2005). However, the District Council is currently unable to demonstrate a 5 year housing land supply to meet its objectively assessed need and, in addition, the replacement Local Plan, which has been withdrawn from determination, did suggest a Settlement Framework boundary be provided around what is considered to now be a ‘sustainable’ village.

Given the above, regard has to be given in the main to the requirements of the National Planning Policy Framework (NPPF). 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, Policies SF4 and H4 of the Adopted Local Plan (2005) can be attributed no weight given that these seeks to restrict residential development outside Settlement Framework boundaries, except in exceptional circumstances such as for affordable housing or essential rural worker’s dwellings.

The District Council therefore 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 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. 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.
Notwithstanding the above, 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 and Policy NBE5 advises that where the proposals may have an impact on protected species, 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. NBE26 seeks to ensure that adequate landscaping is provided as part of a development proposal.

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.

The matters detailed above are addressed as follows.

3. Sustainability

The site is within the settlement Darley Bridge/South Darley and, in the context of the Council having to look outside existing Settlement Framework boundaries to meet its housing needs, this site has reasonably close access to 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 development is proposed on a greenfield, garden site and will have an impact on environmental sustainability, which would include the character and appearance of the area and the impact on trees. 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. These matters are addressed below.

4. Design and Appearance and Impact on the Character and Appearance of the Area

The site is considered to form part of a clear visual transition of the tighter form of more traditional buildings of Darley Bridge up to the Three Stags Heads Public House and the junction with Oldfield Lane which are set close to the highway and that of the later, more spacious development, set back on the frontage along Eversleigh Rise.

The immediate area of the application site is characterised by dwellinghouses set with reasonably large curtilages, in a largely linear form set back from the highway. In this respect, the application site could intrude into this streetscape being set so close to the highway. In this respect, the proposal is considered to detract from the underlying character and appearance of the area and fails to comply with Policies SF5 and H9 of the Adopted Local Plan (2005).

5. Impact on Amenity

It is considered that the dwelling could be accommodated without having a significant impact of the amenity of the existing properties either side.
6. Highway Matters
The Parish Council and local residents have previously and currently raise concerns with regard to the loss of on-street parking space. However, it is considered that the loss would be a single, on-street car parking space and there are no objections to the proposal from the Local Highway Authority. In this respect, the development is considered acceptable subject to conditions to meet the requirements of the Local Highway Authority.

7. Trees
In the centre of the application site, in the position of the footprint of the new dwelling, there was a large mature Horse Chestnut tree, the canopy of which virtually filled the side garden. This tree had an outstanding public amenity value and was protected by Tree Preservation Order 30. Unfortunately, the Horse Chestnut tree had to be felled about 10 years ago on the grounds that it was dying. However, there was a duty on the applicant, as owner of the land, to plant a replacement tree of an appropriate size and species in the near vicinity of the original tree as soon as it was reasonably possible.

In this respect, a replacement Oak tree was planted in about 2005/6 but the tree was re-located to the northern area of the side garden. The replacement tree has since grown to a height of about 1.75 metres. The replacement tree is protected by the Tree Preservation Order in the same way that the original tree was.

The rear garden of the proposed dwellinghouse, which has been illustrated (approximately 10 metres in depth), would be overhung by the canopy of the mature Pines to the north-west and contain the protected young Oak tree with the potential for considerable further growth. The construction of a dwelling would leave insufficient space for the replacement Oak tree to develop into a specimen tree of similar shape and size to the protected tree that was felled. Whilst the applicant has indicated that the tree could be relocated, there is limited space to where the tree could develop and reinstate the replacement tree as a character feature of the area. Given the above, it is considered that the proposal fails to comply with Policy NBE6 of the Adopted Derbyshire Dales Local Plan (2005).

8. Wildlife Issues
The applicant has submitted an ecology report with the current application. The survey concludes that the habitats present on the site are sub-optimal for great crested newt. DWT have previously agreed that it is extremely unlikely that great crested newts will utilise the habitats present on the site and, as such, are unlikely to be affected by the proposed development.

However, given the presence of great crested newt in the immediate locality, DWT has previously advised that any works would need to be carried out in strict accordance with a precautionary working methodology, which should include the removal of any areas of potentially suitable habitat in the presence of a supervising ecologist as a condition of any grant of planning permission.

9. Conclusion
Given the above, and notwithstanding the need of the District Council to meet its 5 year housing land supply, it is considered that there are material reasons as to why development should be refused in this instance that outweigh the need for this single housing development.
The proposal would be an encroaching form of development within the streetscene of this part of the settlement and would be harmful to the character and appearance of the immediate area. In addition, the development would be likely to significantly impact on protected and established trees to the detriment of the character and appearance of the area. As such, it is recommended that planning permission be refused for these reasons.

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

1. The proposal is for a dwellinghouse set forward of the front elevation of the adjoining property which would encroach into the streetscene and would be harmful to the prevailing character and appearance of the area and therefore fail to comply with government guidance contained in the National Planning Policy Framework and National Planning Policy Guidance and with Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005).

2. The proposal would be likely to lead to pressure for the future removal of a protected tree, and trees adjacent to the site on the northern boundary site, due to the proximity of the proposed dwelling to those trees. This would be to the detriment of the character and appearance of the area and the proposal therefore fails to comply with government guidance contained in the National Planning Policy Framework and National Planning Policy Guidance and with Policies SF5, H9 and NBE6 of the Adopted Derbyshire Dales Local Plan (2005).

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 1:1250 received on 9th September 2015
Indicative Layout Plan 1:500 received on 9th September 2015
Design and Access Statement received on 9th September 2015
Protected Species Survey received on 9th September 2015
15/00563/FUL

Hoe Grange, Brassington

Derbyshire Dales DC

Date: 22/10/2015

100019785

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

Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NN.
Telephone: (01629) 731100.
website: www.derbyshiredales.gov.uk
Parish Council: Brassington  Date of receipt: 03.08.2015
Application type: Full  Case Officer: Mr Chris Whitmore

THE SITE AND SURROUNDINGS:
Hoe Grange is a working farm located in an isolated area of plateau pasture landscape, some 1100 metres or so to the west of Longcliffe crossroads. Access is at a bend in the B5056 along a farm track, which is partly shared with a neighbouring property. Large open fields border the track which leads to the farmhouse and numerous agricultural buildings. The fields to the rear of the farm complex rise quite steeply up to a bridleway/footpath (High Peak Trail) that is bordered by banking supporting dry stone walls, scattered individual trees and copses. To the rear of the farm buildings near to the farmhouse are four timber holiday lodges.

The farm and holiday lodges sit close to the boundary with the Peak District National Park.

THE APPLICATION:
Planning permission is sought to erect two camping pods on the area of sloping ground to the east of the holiday lodges, beyond a dry stone wall. The site is currently used for pasture and contains a sewerage treatment plant which serves the holiday lodges. The camping pods will be sited at the northern end of the site and will sit approximately 3m apart. The pods will be 2.8m wide by 4.8m long and will have arched side walls which will rise up to a height of 2m. The side walls / roof will be clad in grey slates. In front of the pods will be a small raised platform.

RELEVANT HISTORY:
11/00905/FUL  Installation of 12 metre to hub, 17 m to blade tip 10 kW wind turbine and 20 no. ground mounted solar photovoltaic panels – Granted
09/00289/FUL  Erection of 2 no. timber holiday chalets and sewage treatment plant – Granted
06/00250/FUL  Change of Use of Building to Farm Stables - Granted
05/00092/FUL  Erection of 2 No. Timber Holiday Lodges, Associated Access and Parking Area and Sewage Treatment Plant - Granted
04/07/0621  Erection of 2 No. Holiday Lodges and Associated Parking Area (Outline) - Refused
WED/0483/0241  Approval of Reserved Matters – Farm Bungalow – Granted
WED/0282/0183  Approval of Reserved Matters – Agricultural Bungalow – Granted
WED/1178/0781  Erection of Agricultural Bungalow (Outline) - Granted

CONSULTATIONS:
Parish Council:  No objections.
Local Highway Authority:
Whilst the site's existing vehicular access is not in accordance with current design
guidance in terms of its layout and available visibility. It is unlikely two single bed
camping pods will increase the traffic generation associated with this access by any
significant level. Also, passing vehicle speeds on the fronting road are suppressed
due to the road's torturous nature and there have been no recorded road traffic
accidents at the access point in the last three years. Therefore, whilst the access isn’t
ideal, there are no grounds for a highway safety objection.

Peak District National Park Authority:
No objections, however, recommend some additional landscaping to help minimise
the visual impact and safeguard the character of the surrounding landscape.

REPRESENTATIONS:
None.

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
SF4   Development in the Countryside
SF5   Design and Appearance of Development
EDT14Farm Diversification
EDT19Tourist Accommodation Outside Defined Settlement Frameworks
NBE8Landscape Character
NBE26Landscape Design in Association with New Development
TR1  Access Requirements and the Impact of New Development
TR8  Parking Requirements for New Development

Other:
The National Planning Policy Framework (2012)

 ISSUES:
1. The site lies approximately 1km to the west of Brassington, within the open
countryside. Local Plan Policy SF4 is supportive of development in the countryside
that represents the acceptable re-use, adaptation or extension of existing rural
buildings and that assists the growth of tourism. Such development must, however,
be appropriate in nature and scale to a rural area, preserve or enhance the
character and appearance of the countryside and minimise any adverse impact on
the local environment.

2. The preamble to Policy EDT19 states that the District Council will give preference to
proposals that support sustainable rural tourism, that do not harm the open
character and appearance of the countryside and that are accessible, preferably by
a variety of transport modes. These provisions are echoed in the National Planning
Policy Framework. However, Policy EDT19 states that, outside of defined
Settlement Framework boundaries, new tourist accommodation will only be
permitted if it involves the re-use, adaptation or change of use of buildings of
permanent and substantial construction which make a positive contribution to the
character and appearance of the surroundings. The policy does not permit the
erection of new buildings for such purposes.
3. The NPPF advises, that in supporting a prosperous rural economy, that planning policies should support ‘sustainable’ rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres (paragraph 28). It is considered that the above Policies of the adopted Local Plan remain relevant as, whilst they are different in wording, they broadly reflect the approach of the policies of the NPPF.

4. When planning permission was granted in 2005 for two holiday lodges, committee members were of the opinion that development would supplement the income derived from agriculture on the land and coupled with the sensitive positioning of the development would outweigh the issue of the unsustainable location of the accommodation. The lodges proved to be very successful and a further application was submitted for two additional lodges in 2009. Planning permission was granted, again at committee, despite concern that by doubling the number of holiday lodges it could no longer be considered as ‘agricultural diversification’ and, if as successful as the existing lodges develop into a holiday centre with further development proposals possibly being put forward, contrary to sustainable development principles.

5. This application proposes further expansion of the holiday accommodation. The application is not submitted as part of a further scheme of farm diversification. The level of accommodation would, it is considered, go beyond that which could be reasonably considered necessary to supplement the income derived from agriculture on the land. In any event, Policy EDT14 ‘Farm Diversification’ of the Adopted Derbyshire Dales Local Plan only supports proposals to diversify the operation of an existing agricultural operation provided that; (a) it makes full and effective use of existing on-holding buildings in preference to the construction of new buildings and; (b) does not have an adverse impact upon the character and appearance of the immediate or wider landscape.

6. Having regard to the location of the site, the aforementioned policies of the development plan and national guidance, it is considered that the main issues to assess in the consideration of this application are:

   a) is the site an appropriate location for further expansion of holiday accommodation?, in terms of its accessibility by a variety of transport modes and proximity to service and facilities and tourist attractions;

   b) the impact of the development on the character and appearance of this part of the countryside / local landscape character.

7. It is not considered that two camping pods would significantly increase traffic / use of the substandard access. Given the low vehicle speeds and no accidents being recorded in the locality the Local Highway Authority see no reason to object to the proposed development on highway safety grounds.

The appropriateness of the location
8. The site is located off the B5056, a country road without any footways. It is remote from the nearest settlement, Brassington, where some basic facilities, including a pub can be found. The promotional literature for existing holiday accommodation makes reference to limited public transport from Brassington village to Wirksworth and Ashbourne and the nearest shop is located in Parwich. It would be difficult therefore to access the services and facilities required whilst holidaying on site other than by the private motor vehicle. Given the lack of infrastructure it is impossible to achieve the aim of making the fullest possible use of public transport, walking and cycling recommended in the NPPF. Other than being in the countryside and within reach of a leisure trail, the accommodation is not well related to any tourist attraction. Further expansion of the holiday accommodation on site is considered therefore to be unsustainable, insofar as the location is concerned.

Impact on the character and appearance of the countryside and local landscape

9. The field upon which the camping pods will sit is steeply sloping and will be visible from some public vantage points including from the High Peak Trail. In the winter months they will be more visible. Notwithstanding that they will be closely associated with the existing log cabins and farm buildings, the camping pods will be an alien building type in the landscape. To mitigate the impact there is, however, opportunity to introduce some supplementary landscaping to the north and east. Combined with existing pockets of woodland the development is capable of being absorbed within the surrounding landscape, without detriment to the character and appearance of this part of the countryside.

10. Notwithstanding the above, the location of the camping pods, given the lack of infrastructure required to make the fullest possible use of public transport, walking and cycling combined with the distance from basic services and facilities is such that the development would be inherently unsustainable and encroaching in this open countryside location. It is recommended that the application be refused for this reason.

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

1. Expansion of the existing holiday facilities at Hoe Grange through the provision of two new camping pods would, given the lack of infrastructure necessary to make the fullest possible use of public transport, walking and cycling and distance from basic services and facilities constitute an inherently unsustainable and encroaching form of development in this open countryside location contrary to the aims of Policies SF4 and EDT19 of the Adopted Derbyshire Dales Local Plan (2005) and guidance contained within the National Planning Policy Framework (2012).

Footnote:
1. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation. On this basis, the requirement to engage in a positive and proactive manner was considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.
This Decision Notice relates to the following documents:
1:10000 Scale Site Location Plan;
1:500 Scale Proposed Block Plan, and;
Proposed Camping Pod Floor Layout and Perspective Image received by the District Council on the 3rd August 2015.
THE SITE AND SURROUNDINGS:
The site is Haarlem Mill which is set to the west of Derby Road (B5023) to the south of Wirksworth where the town bounds the open countryside. To the north of the site there is open, overgrown land and to the north west the site abuts the residential development at Snowfield View which overlook the application site as the relatively level application site becomes embanked.

This is an historic site and its principal significance derives from its associations with Richard Arkwright and George Elliot. Whilst initially a water-powered mill, it is also an early example, if not the earliest example, of a factory designed to house a steam engine to provide the power for cotton spinning.

The mill site comprises the following building and features:

- Haarlem Mill is a Grade II* listed building dating from the late 18th century which was initially constructed by Richard Arkwright for cotton spinning. It has been extended and modified over time to adapt to steam power and processes were introduced for tape weaving in 1815. It is constructed to four storey height with ashlar and coursed rubble stonework up to first floor cill level, with red brick above and a slate covered roof.

- The warehouse to the west of the Mill building is a Grade II listed building which is currently undergoing repair and restoration to create commercial units (this is not included within the application as no changes are proposed which require formal planning permission or listed building consent).

- The Mill House is a Grade II listed building which is still in residential use (this is not included within the application as no changes are proposed which require formal planning permission).

- Car park – this is set to the front and to the south of the warehouse building.

- Derelict/partially demolished 20th century industrial buildings with associated hardstanding/car parking facilities in front set to the north of the historic mill building. These buildings, with the associated land to the north, are the area of the former mill pond which has been infilled and, in part, turned over to hardstanding.

- Other features
  Flowing close to the eastern boundary is the Ecclesbourne River watercourse that originally fed the mill pond and which continues in channel to the south of the mill and its archaeology remains apparent through the length of the site. In terms of other landscape features, there is a belt of mature trees along the eastern boundary (to the north of the vehicle access) which are subject to a Tree Preservation Order. The land to the south of the access is more open. The length of the eastern boundary with the highway is aligned by a largely continuous drystone wall which is punctuated by the vehicle access and field gates.
THE APPLICATION:
Listed building consent is sought for the works to the Grade II* listed building to allow its usage as Offices. This element of the overall complex was last used for some file storage but has largely remained unused since it operated as a mill, hence the need to change the use. The Grade II listed warehouse building to the west does not form part of this application as it was largely used for office purposes previously; the applicant is seeking to use it for the same purposes and to undertake repairs which do not require planning permission or listed building consent.

The proposal seeks to subdivide the Grade II* mill building into a number of small business units in response to the market perceived by the applicant. The sub-division is proposed to be restricted to the first and second floor and to maintain fully open floors on the ground and third floors. It is proposed the internal dividing walls would be fully demountable, plywood partitions and be of a ‘temporary’ nature, with glazed, end panels inset to allow views through the floor level. This will allow for flexibility in the use of the floorspace on the first and second floors. There is also a requirement to provide sectioned off areas for w.c.s and meeting rooms.

The partitions would meet with building regulations to a requirement of a 30 minute fire resistance. Similarly, it is proposed to treat each floor with intumescent paint from below and to increase the integrity of the floors by introducing a 19mm plywood layer over the existing floor boards. It is proposed to protect the stairs with a pressurisation fan linked to the fire detection system in order to prevent smoke entering the stair well. The applicant has submitted a full breakdown of the proposed works for each floor.

The District Council’s Building Regulations Section has advised that, notwithstanding the need to seek to ensure access for all within the building, a lift will not be required in order to preserve the internal integrity of the listed building and to not impact on its historic fabric. The heating is proposed by electric, night storage heaters in order to avoid intrusive pipework. Electricity supply would be trunked within the new corridor wall, suspended timber ground floor or surface mounted galvanised trunking as appropriate.

Externally, it is proposed to remove later 20th century additions, most of which are lightweight and are not integral to the building, to reveal the original historic fabric of the building. Any resultant repairs would be made good to match the original fabric; the applicant has commenced such repairs under the guidance of the District Council’s Conservation and Design Section. Decoration of the existing walls will be restricted to consolidating existing wall finishes.

RELEVANT HISTORY:
15/00395/FUL Conversion and alteration of mill to office/light industrial use and erection of 30 dwellings and associated infrastructure and access – to be determined
14/00205/LBALT Alterations to listed building - Re-roofing – Granted
12/00698/LBALT Alterations to listed building - Conversion of office building to 16 no. residential apartments and demolition of link buildings - Withdrawn
12/00697/FUL Change of use and conversion of premises to form 16 no. residential apartments and demolition of link buildings - Withdrawn
11/00944/LBALT Alterations to listed building - Demolition of 2 no. workshop buildings - Granted
11/00770/DEM Demolition Prior Notification - Demolition of single storey building to north of existing mill building - Granted
0898/0485 New works entrance and vehicle turning area (renewal of WED/793/479)
0793/0479 New works entrance and vehicle turning area (renewal of WED/0788/0497)
0693/0402 Alterations to listed building - Granted
0693/0381 Use of premises for offices with living accommodation at first floor - Granted
0788/0497 New works entrance and vehicle turning area - Granted
0488/0283 Demolition of outbuildings to listed building - Granted
0887/0572 Alterations to and partial demolition of listed building - Granted
0487/0285 Change of use of dwelling to light industrial - Granted
0386/0188 Industrial units (Outline) - Granted

CONSULTATIONS:
Town Council – No objection.

Historic England – Comment:
- Grade II* listed Mill
  - introduction of plywood and glazed sections will impact on the legibility and appreciation of the open plan arrangement of the first and second floors of the Mill
  - no justification is submitted to robustly demonstrate that the subdivision is necessary to outweigh the degree of harm
  - would be useful to understand if the pressurisation fan, requiring a metal grill, is the least harmful means of achieving fire protection on the stairs
  - insufficient information provided with regard to covering the stone flags.
- New Build Development – original proposals
  - principle of redevelopment of Area 2 housing will not affect the setting of the listed building and agreed to the concept of mill workers’ cottages
  - not convinced of the north light roof concept – suggest consideration be given to traditional pitched roofs and encourage us of national, local materials such as stone and slate
  - remain concerned by the impact of residential development in Area 1 and associated domestication on the setting of the Mill
  - combination of individual private frontages spaces and driveways, with a continuous flat roof and areas of metal cladding is not convincing – urge improvements and revisions to design
  - refer to statutory requirement to have special regard to preserving a listed building or its setting and the aims of achieving sustainable development needing to protect or enhance the historic environment
- Recommendation
  - support the principle of repair and re-use of the Mill for office accommodation but subdivision will lead to a degree of harm which needs to be weighed up with the public benefits as set out in the NPPF
  - residential development closest to the mill will harm the significance of the Mill
  - LPA must carefully weigh the significance of the heritage asset and the degree of harm arising from the development against the merits of the proposed housing development
  - if less harmful locations for housing are identified to meet need, there is no justification for all the proposed residential development in the location.
Conservation Advisory Forum – Comment:
- considered the proposed works to be acceptable
- requested that further information be sought on how the external ‘scarring’ was to be treated, when the modern outbuildings were removed - considered that this should be retained as part of its history/evolution
- where windows openings are shown blocked if the windows are not in-situ at the rear of this blocking, then detailed drawings of the proposed replacement windows should be submitted
- a schedule of proposed works which identify any internal changes/alterations/upgrading should be submitted.

DCC Development Control Archaeologist – No objection to works to the mill building

REPRESENTATIONS:
One letter of representation from a Derbyshire resident agreeing with the Design and Access Statement and supports the refurbishment and removal of inappropriate 20\textsuperscript{th} Century alterations to the Grade II listed building.

Wirksworth Civic Society – Comment:
- note development of housing on land north of the Mill but should be dependent on completion of repairs and reinstatement of windows and doors to the Grade II* Mill where there is pictorial evidence in historic photographs and be subject to a Section 106 Agreement
- some archaeological exploration of where the late 18\textsuperscript{th} Century steam pump was located would be welcomed
- should not be a significant subdivision of the interior of the Mill
- should have a sustainable use, ideally employment
- support conversion of the 19\textsuperscript{th} Century Mill to residential if no employment use can be found
- any new housing should be of a high standard and design
- building materials should be traditional – gritstone, limited amount of good red brick and Staffordshire blue roof tiles or Welsh slates.
  - boundary divisions should be gritstone
  - new housing should be located on higher ground.

POLICIES:
1. National Planning Policy Framework
2. National Planning Practice Guidance
3. Wirksworth Neighbourhood Development Plan (2015-2028)

ISSUES:
The principle of the alterations proposed need to be given full and careful consideration in ensuring the works are reasonable and will preserve the special historic character and appearance of the nationally important Grade II* listed building.

The principal area of concern is the subdivision of the first and second floor open plan spaces into compartmentalised offices. Historic England is concerned that this will harm the open character and appearance of these spaces to the detriment of the Grade II* listed building. However, the subdivision is considered by Officers to be reasonably necessary if these spaces are to be marketed for commercial uses and the partitioning is relatively
easy to reverse should a business decide it will take a full floor for its use and would wish open plan provision. The proposals also detail glazing to allow for views through the partitioning which will give a sense of the historic extent of the floor space. Therefore, it is considered that the benefit of providing for such spaces within the building, and getting it back to a viable use, outweighs the harm that would be caused with the introduction of the walling.

It is considered that the external scarring of the building should remain in situ, rather than being made good, as it is part of the archaeology/history of the building and the alterations to it over time.

The main door is proposed to be fully glazed and, whilst the original door would have been timber, no evidence survives of this, and the current door is modern. It is considered that the principle of a single leaf glass door is acceptable, but consideration should be given to this being metal framed. Alternatively, a solid door may be more appropriate. Therefore, it is considered reasonable to attach a condition to any grant of listed building consent to agree the final details of the door.

Whilst concerns have been raised by Historic England to the works to the staircase and the fire proofing proposal, Officers consider this to be an appropriate means of meeting Building Regulations; a condition will be required with regard to submitting full details of these measures and any external grilles that may be required on the external face of the building.

The provision of a ‘louvre’ to the upper staircase window is considered acceptable subject to details being approved through condition. In addition, there is the requirement for a condition to agree the joinery paintwork colours.

A new firedoor is proposed and details of this will be required to be submitted for approval through a condition. The new floating floor on the ground floor, which would be on top of the stone flags is considered practical and reversible and will not cause harm to the historic fabric of the building. However, a condition will be necessary to require details as to how this will be constructed.

When all of the above matters are weighed in the balance, the impacts are significantly outweighed by the substantial benefits of the renovation and re-use of this historic building for employment and the safeguarding of the heritage asset. As such, it is recommended that listed building consent be granted subject to conditions.

OFFICER RECOMMENDATION:
Listed building consent be granted subject to the following conditions:

1. Condition ST04a Time limit on listed buildings
2. Notwithstanding the details in the submitted application documents, prior to their provision, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
   - the main door
   - the means of attaching the internal walls and glazing to the fabric of the building
   - details of the louvre window to the staircase
   - details on any grilles on the external wall of the building
- details of the firedoor
- details of the fixing of the floating floor
- the external joinery paintwork colour(s).

The above shall be provided in full accordance with the approved details before the building is brought into use.

Reason:

1. Reason ST04a

2. To safeguard the special historic character and appearance of this Grade II* listed building to comply with government guidance contained in the National Planning Policy Framework.

NOTES TO APPLICANT:
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 the application.

This decision notice relates to the following documents:

Amended Haarlem Mill Design and Access Statement with Heritage Impact Statement received on 9th September 2015
Preliminary Masonry Repair Specification received on 18th June 2015
THE SITE AND SURROUNDINGS:
The site is Haarlem Mill which is set to the west of Derby Road (B5023) to the south of Wirksworth where the town bounds the open countryside. To the north of the site there is open, overgrown land and to the north west the site abuts the residential development at Snowfield View which overlooks the application site as the relatively level application site becomes embanked.

This is an historic site and its principal significance derives from its associations with Richard Arkwright and George Elliot. Whilst initially a water-powered mill, it is also an early example, if not the earliest example, of a factory designed to house a steam engine to provide the power for cotton spinning.

The mill site comprises the following building and features:

- Haarlem Mill is a Grade II* listed building dating from the late 18th century which was initially constructed by Richard Arkwright for cotton spinning. It has been extended and modified over time to adapt to steam power and processes were introduced for tape weaving in 1815. It is constructed to four storey height with ashlar and coursed rubble stonework up to first floor cill level, with red brick above and a slate covered roof.

- The warehouse to the west of the Mill building is a Grade II listed building which is currently undergoing repair and restoration to create commercial units (this is not included within the application as no changes are proposed which require formal planning permission).

- The Mill House is a Grade II listed building which is still in residential use (this is not included within the application as no changes are proposed which require formal planning permission).

- Car park – this is set to the front and to the south of the warehouse building.

- Derelict/partially demolished 20th century industrial buildings with associated hardstanding/car parking facilities in front set to the north of the historic mill building. These buildings, with the associated land to the north, are the area of the former mill pond which has been infilled and, in part, turned over to hardstanding.

- Other features
  Flowing close to the eastern boundary is the Ecclesbourne River watercourse that originally fed the mill pond and which continues in channel to the south of the mill and its archaeology remains apparent through the length of the site. In terms of other landscape features, there is a belt of mature trees along the eastern boundary (to the north of the vehicle access) which are subject to Tree Preservation Order DCCTPO/023/G6. The land to the south of the access is more open. The length of the
eastern boundary with the highway is aligned by a largely continuous drystone wall which is punctuated by the vehicle access and field gates.

THE APPLICATION:
Full planning permission is sought for the following development and usage of the Grade II* listed element of the mill complex. This element was last used for some file storage but has largely remained unused since it operated as a mill, hence the need to change the use.

The Grade II listed warehouse building to the west does not form part of this application as it was largely used for office purposes previously; the applicant is seeking to use it for the same purposes and to undertake repairs which do not require planning permission or listed building consent.

Re-use and Conversion Works of the Grade II* Mill Building
The proposal seeks to subdivide the mill building into a number of small business units in response to the market perceived by the applicant. The sub-division is proposed to be restricted to the first and second floor and to maintain fully open floors on the ground and third floors. It is proposed the internal dividing walls would be fully demountable, plywood partitions and be of a ‘temporary’ nature, with glazed, end panels inset to allow views through the floor level. This will allow for flexibility in the use of the floorspace on the first and second floors. There is also a requirement to provide sectioned off areas for w.c.s and meeting rooms.

The partitions would meet with building regulations to a requirement of a 30 minute fire resistance. Similarly, it is proposed to treat each floor with intumescent paint from below and to increase the integrity of the floors by introducing a 19mm plywood layer over the existing floor boards. It is proposed to protect the stairs with a pressurisation fan linked to the fire detection system in order to prevent smoke entering the stair well. The applicant has submitted a full breakdown of the proposed works for each floor.

The District Council’s Building Regulations Section has advised that, notwithstanding the need to seek to ensure access for all within the building, that a lift will not be required in order to preserve the internal integrity of the listed building and to not impact on its historic fabric. The heating is proposed by electric, night storage heaters in order to avoid intrusive pipework. Electricity supply would be trunked within the new corridor wall, suspended timber ground floor or surface mounted galvanised trunking as appropriate.

Externally, it is proposed to remove later 20th century additions, most of which are lightweight and are not integral to the building, to reveal the original historic fabric of the building. Any resultant repairs would be made good to match the original fabric; the applicant has commenced such repairs under the guidance of the District Council’s Conservation and Design Section. Decoration of the existing walls will be restricted to consolidating existing wall finishes.

Residential Development to the north of the Mill Complex
This is proposed to be set on the former 20th century industrial buildings site and the open land to the north. It was originally proposed to create 34 dwellinghouses. However, due to site constraints, and in achieving an appropriate development scheme, the number of units has been reduced to 30. These are proposed to create two character areas.
The area immediately to the north of the mill complex is proposed as a two buildings, of a more commercial character and appearance, which would act as transition buildings between the mill complex and the more typical dwellinghouse forms proposed to the north. The buildings would provide 6 dwellinghouses in each block. Each building would measure 32.5m wide by 9.5m deep and 7m high with a flat roof. The buildings would be constructed with red brick, with aluminium framed windows and doors, and the rainwater goods would be grey coloured aluminium. Each dwellinghouse would comprise an open plan kitchen, living room and dining room on the ground floor with three bedrooms and a bathroom above. Each dwellinghouse would have a rear garden with a pathway to access the gardens from the rear.

The dwellinghouses would be served by an open court parking area to the front. To the south of this development, a further car parking area would be provided to serve the mill complex to supplement the existing parking facilities to the south and in front of the mill complex.

The residential development to the north comprises a mix of house types fronting towards the east and south. Further houses are set within a courtyard to the rear of the frontage properties. These are proposed to be constructed with red brick with gritstone and metal sheet detailing, slate roofs, aluminium framed windows and doors, and the rainwater goods would be grey coloured aluminium.

The above, new development is proposed to be accessed via a new access, across a new bridge, proposed off Derby Road. This is proposed to be constructed with concrete culverts with the road laid above, having regard to the trees and the flood defence wall.

The applicant has submitted documents in support of the application which seek to address the following matters:

Viability
The applicant advises that the development proposal centres on the restoration and reuse of the listed mill complex. The applicant has submitted an appraisal of the expected profits associated with the overall development which identify a 10% profit margin on the assumption that there would be a 75% and 60% occupancy of the two commercial office buildings.

The applicant has not ‘formally’ presented the new build residential development as being enabling development but does refer to Historic England general expectations that such a proposal should still provide a developer yield of 15-20% as a result of other development supporting the beneficial restoration and re-use of historically important buildings.

The viability appraisal details estimated costs of £6.768m with a return of some £7.45m, a profit of approximately £681K. However, there are other abnormal costs which the applicant has not factored in, which may have an impact on the profit percentage, which include removal of asbestos, abnormal foundations, contamination, archaeological investigation, breaking of concrete, bedrock, etc., floor finishes, white goods, light fittings, cupboards/storage, furniture, etc. Given the above, the applicant has not proposed the provision of on-site affordable housing provision or a financial contribution to off-site provision.
**Highway Matters**
The applicant discussed the adequacy of the existing vehicle access with the Local Highway Authority (LHA). One the advice of the LHA, the planning application has been submitted with a separate access to serve the residential to the north, with the existing access remaining to serve the commercial usage of the listed mill buildings and the residential use of mill manager’s house. However, during consideration of the application the access has needed further consideration and relocation in accordance with discussions with the LHA.

**Open Space**
In terms of open space, the applicant has proposed an area to be provided to the front of the dwellinghouses; there is no formal play area provision proposed.

**Archaeology**
The applicant has entered into pre-application discussions with the DCC Development Control Archaeologist prior to the submission of the application.

The applicant has also submitted the following documents in support of the application:

**Development Appraisal:**
- Amended Haarlem Mill Design and Access Statement with Heritage Impact Statement
  - New Development Design and Access Statement
  - Preliminary Masonry Repair Specification
  - Flood Risk Assessment
  - Extended Phase 1 Habitat Survey
  - Desk-Based Assessment and Historic Building Survey
  - Arboricultural Report and Tree Location Plan

**RELEVANT HISTORY:**
- 15/00394/LBALT Conversion and alteration of mill to office / light industrial use – to be determined
- 14/00205/LBALT Alterations to listed building - Re-roofing – Granted
- 12/00698/LBALT Alterations to listed building - Conversion of office building to 16 no. residential apartments and demolition of link buildings - Withdrawn
- 12/00697/FUL Change of use and conversion of premises to form 16 no. residential apartments and demolition of link buildings - Withdrawn
- 11/00944/LBALT Alterations to listed building - Demolition of 2 no. workshop buildings - Granted
- 11/00770/DEM Demolition Prior Notification - Demolition of single storey building to north of existing mill building - Granted
- 0898/0485 New works entrance and vehicle turning area (renewal of WED/793/479)
- 0793/0479 New works entrance and vehicle turning area (renewal of WED/0788/0497)
- 0693/0402 Alterations to listed building - Granted
- 0693/0381 Use of premises for offices with living accommodation at first floor - Granted
- 0788/0497 New works entrance and vehicle turning area - Granted
- 0488/0283 Demolition of outbuildings to listed building - Granted
- 0887/0572 Alterations to and partial demolition of listed building - Granted
- 0487/0285 Change of use of dwelling to light industrial - Granted
- 0386/0188 Industrial units (Outline) - Granted
CONSULTATIONS:
Town Council – No objection.

Local Highway Authority – No objection to the amended layout subject to conditions.

Environment Agency – Comment:
- no objection subject to Conditions with respect to flood protection, works to flood wall, finished floor levels and culverts under the new access road.

Historic England – Comment:
- Grade II* listed Mill
  - introduction of plywood and glazed sections will impact on the legibility and appreciation of the open plan arrangement of the first and second floors of the Mill
  - no justification is submitted to robustly demonstrate that the subdivision is necessary to outweigh the degree of harm
  - would be useful to understand if the pressurisation fan, requiring a metal grill, is the least harmful means of achieving fire protection on the stairs
  - insufficient information provided with regard to covering the stone flags.

- New Build Development – original proposals
  - principle of redevelopment of Area 2 housing will not affect the setting of the listed building and agreed to the concept of mill workers’ cottages
  - not convinced of the north light roof concept – suggest consideration be given to traditional pitched roofs and encourage us of local materials such as stone and slate
  - remain concerned by the impact of residential development in Area 1 and associated domestication on the setting of the Mill
  - combination of individual private frontages spaces and driveways, with a continuous flat roof and areas of metal cladding is not convincing – urge improvements and revisions to design
  - refer to statutory requirement to have special regard to preserving a listed building or its setting and the aims of achieving sustainable development needing to protect or enhance the historic environment

- Recommendation
  - support the principle of repair and re-use of the Mill for office accommodation but subdivision will lead to a degree of harm which needs to be weighed up with the public benefits as set out in the NPPF
  - residential development closest to the mill will harm the significance of the Mill
  - LPA must carefully weigh the significance of the heritage asset and the degree of harm arising from the development against the merits of the proposed housing development
  - if less harmful locations for housing are identified to meet need, there is no justification for all the proposed residential development in the location.

Conservation Advisory Forum – Object:
- considered that the scheme was disappointing in that:
  o proposed layout does not relate to the surrounding land form or respect the contours of the site.
  o proposed housing layout does not have any relationship to the layout of the mill buildings.
  o separation between the mill buildings and the proposed housing (with a car parking/manoeuvring area), does not produce a holistic or integrated scheme
‘strip’ development across the site does not enhance the context of the mill
concerns with the details of boundary treatments and the communal areas.
considered that a revised scheme which reintroduced the former mill-pond/mill race,
with housing facing onto the millpond may enable a more integrated housing
scheme associated with the mill complex and therefore be beneficial to the setting
of the historic assets - this was considered an important concept for further
consideration
- the proposed cotemporary house types were considered acceptable and not harmful
to the context of the overall area, although Blocks 1 and 2, which appear as flat roofed,
were questionable as to whether this was the correct approach
- any development approved for the site should be subject to a Section 106 agreement
in order that the requisite works to Haarlem Mill are undertaken.

DCC Development Control Archaeologist – No objection subject to a condition with respect
to a watching brief.

Environment Agency – No objection subject to conditions with regard to finished ground
floor levels and provision of a new culvert under the proposed access.

DCC Land Drainage – Comment:
- a drainage design should be produced that follows the hierarchy of drainage options to
meet Building Regulations
- conditions required on sustainable drainage system and surface water treatment
stages.

Derbyshire Wildlife Trust – Comment:
- require further survey work with regard to bats and reptiles prior to the determination of
the application and a stand-off between the development and the watercourse.

DCC Countryside and Woodland Officer – No objection subject to conditions

DCC Strategic Policy – Comment:
- request a financial contribution of £45,596.04 towards four junior school places at
Wirksworth Junior School
- recommend provisions made for broadband and domestic sprinkler systems.

Derbyshire Fire and Rescue Service – Comment:
- strongly recommend installation of domestic sprinkler system or 32mm water supply to
allow fitting in the future.

**REPRESENTATIONS:**

One letter of representation from a Derbyshire resident agreeing with the Design and
Access Statement and supports the refurbishment and removal of inappropriate 20th
Century alterations to the Grade II listed building.

Wirksworth Civic Society – Comment:
- note development of housing on land north of the Mill but should be dependent on
completion of repairs and reinstatement of windows and doors to the Grade II* Mill
where there is pictorial evidence in historic photographs and be subject to a Section 106
Agreement
- some archaeological exploration of where the late 18th Century steam pump was located would be welcomed
- should not be a significant subdivision of the interior of the Mill
- should have a sustainable use, ideally employment
- support conversion of the 19th Century Mill to residential if no employment use can be found
- any new housing should be of a high standard and design
- building materials should be traditional – gritstone, limited amount of good red brick and Staffordshire blue roof tiles or Welsh slates.
  - boundary divisions should be gritstone
  - new housing should be located on higher ground.

POLICIES:
1. Adopted Local Plan (2005)
   SF4 Development in the Countryside
   SF5 Design and Appearance of Development
   SF7 Waste Management And Recycling
   SF8 Catering For The Needs Of People With Disabilities In Development And Redevelopment
   H4 Housing Development Outside Settlement Frameworks
   H9 Design And Appearance Of New Housing
   H10 Affordable Housing Within The Settlement Framework Of Market Towns
   H12 Alternative Provision For Affordable Housing Outside Settlement Frameworks
   H13 Affordable Housing Exceptional Sites In Rural Areas
   EDT4 Other Existing Employment Land And Business Premises
   EDT15 New Build Industrial And Business Development Outside Of Settlement Frameworks
   NBE5 Development Affecting Species Protected by Law or are Nationally Rare
   NBE6 Trees And Woodlands
   NBE7 Features Important In The Landscape
   NBE8 Landscape Character
   NBE16 Development Affecting A Listed Building
   NBE17 Alterations And Extensions To A Listed Building
   NBE18 Conversion And Changes Of Use Of A Listed Building
   NBE24 Archaeological Sites And Heritage Features
   NBE26 Landscape Design in Association with New Development
   L6 Outdoor Playing and Play Space Provision 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

4. Wirksworth Neighbourhood Development Plan (2015-2028)
ISSUES:
The main issues to consider in respect to this application are as follows:

1. Policy Principle
2. Viability and Affordable Housing Provision
3. Impact of the Conversion on the Listed Building
4. Design, Character and Appearance of the Proposed Dwellinghouses
5. Highway Matters
6. Impact on Trees
7. Archaeological Matters
8. Ecology Matters
9. Flood Risk and Drainage

Each of these issues is considered below

1. Policy Principle
Before assessing the planning merits of this particular application, it is important to set out the policy context (local and national) and the weight to be given to the different components of the development plan. Conformity or conflict with the policy context will then need to be weighed in the planning balance with other material considerations.

National Planning Policy Framework
The Derbyshire Dales Local Plan is the sole development plan for the area. Its policies have been saved and continue to have force where consistent with the National Planning Policy Framework (NPPF) which was published in March 2012. Whilst the Framework does not change the statutory status of the development plan as the starting point for decision-making (Paragraph 12), in accordance with Paragraph 212 the policies contained within the Framework are material considerations which must be taken into account.

Paragraph 214 of the Framework gave full weight to existing plan policies for 12 months from March 2012. Paragraph 215 advises that beyond the end of March 2013, due weight should still be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The current application therefore needs to be determined having regard to Paragraph 215 advice.

Paragraph 14 advises that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date Local Plan, and also in circumstances where the development plan is absent, silent or relevant policies are out-of-date granting permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites.
The calculation of the five year supply figure for housing in the current circumstances has to be based on the Council’s objectively assessed needs. The Council sought to promote a local plan on a figure of 4400 in summer 2014 but were forced into withdrawing that plan because the Inspector who chaired the first two days of the examination in public concluded that this figure did not actually reflect the objectively assessed need, which he concluded was in the region of 6500, and the Council had not fully demonstrated why this, or a higher figure, could not be met through available sites and/or cooperation with neighbouring authorities.

Until the District Council is able to fully justify an alternative figure, any calculation of five year supply in the interim has to be based on this indicative figure of 6500. The Council, even allowing for the recent granting of permission at Asker Lane in Matlock, and with the assumption that Ashbourne Airfield and Leys Farm, Ashbourne and Derby Road, Doveridge, and several other such planning permissions, will soon be issued as decisions, cannot currently demonstrate a supply of developable sites equivalent to five years plus 20% as required by the NPPF. The major settlements, such as Wirksworth, are intrinsically the most sustainable locations in which to live, with their access to jobs and services, and it is anticipated that they will accommodate the majority of housing growth.

The Adopted Local Plan
Policies SF4 and H4 of the Local Plan deal with Settlement Frameworks and development in the countryside. It is important to reflect on how these sit with the NPPF, what conclusions Planning Inspectors have reached on their applicability and how this impacts on the planning balance.

The Council received the decision on the housing appeal at Asker Lane, Matlock at the start of July. The Council sought to argue in this instance that the landscape harm outweighed the benefits of the scheme. The Council agreed with the appellants that they were unable to demonstrate a 5 year housing land supply and this remains the case. The Inspector concluded that, having regard to paragraph 49 of the NPPF in the absence of a 5 year supply, both Policies H4 and SF4 had to be viewed as out of date and should be disregarded in the planning balance, which instead should focus on the wording of Paragraph 14 of the National Planning Policy Framework (NPPF).

The other Local Plan policies quoted above remain largely in tune with the aims of the NPPF and as such can continue to carry weight in decision making.

The National Planning Policy Framework and Paragraph 14
In accordance with the above, and in the absence of a 5 year supply of deliverable housing sites, the NPPF directs decision making on planning applications to the guidance in paragraph 14. It states: -

For decision taking this means:
- Approving development proposals that accord with the development plan without delay and
- Where the development plan is absent, silent or relevant policies are out-of-date granting permission unless:
  - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - Specific policies of the Framework indicate that the development should be restricted.
The decision taker is effectively asked to weigh the economic, social and environmental benefits and disbenefits against one another and only where those disbenefits significantly and demonstrably outweigh the benefits reject the scheme.

Wirksworth Neighbourhood Development Plan
The Wirksworth Neighbourhood Development Plan is a material consideration and has regard to the potential for development at Haarlem Mill and a concept statement in Appendix 4 which states:

‘the development of the Mill should seek to create a high quality living and working environment that respects and takes full advantage of the dramatic location, whilst critically preserving the historical architectural and landscape qualities within and around the site. Normal planning approaches to planning both residential and employment developments are unlikely to be appropriate for this site……’

It also refers to taking account of the opportunity for low energy design, the priority of pedestrians over vehicles and to reduce the extent of characterless vehicle surfaces, to create a rich and varied townscape character, complementary to Wirksworth, with distinctive, progressive, contemporary and respectful development with innovation to achieve a low carbon design for residential and non-residential buildings. The development should also be based on an extensive site appraisal considering history, ecology, site character and qualities.

The Plan also details that the provision of 30 new houses and apartments may be viable but this should be on the brownfield land and building densely. A building line parallel to Derby Road should be applied to ensure the eastern gable of the Mill does not lose its prominence. The blocks could be three storeys tall with intervening, quality urban space. Multi-storey development would allow for ground floor usage for employment. In terms of Policy contained in the Plan, Policy NP3 refers to sites with concept statements, such as that summarised above, and states that in such cases, the proposed development should generally be in accordance with that statement.

The remainder of this report will analyse the scheme against the above policy requirements.

2. Viability and Affordable Housing Provision
The applicant has advised of the profit margins that would be expected to result from the development and the difficulties that the development proposals would have in being able to fund affordable housing provision. It is considered that the details submitted are realistic, and since there provision the application has been amended to reduce the number of proposed dwellings from 34 to 30.

The development proposes fairly modest three bedroomed dwellinghouses and four, 2 bedroomed dwellinghouses. Whilst these would not be dwellinghouses that would be operated by a registered social landlord, such as a housing association, in line with Adopted Local Plan policy, they are nevertheless at the more affordable end of the housing scale.

In the same respect, whilst the DCC Strategic Policy Section has requested a financial contribution towards additional school places, given the financial margins of the proposed development, Officers are of the view that such a requirement would place a significant
financial burden on the deliverability of the proposals. In this respect, no financial contribution is required.

3. Impact of the Conversion and New Build Development on the Listed Building
The proposed development will undoubtedly have an impact on the setting of the Grade II* Mill building, as did the former industrial buildings erected to the north of it which has been demolished. However, the form, height, scale and linearity of the proposed dwellings in Area 1 are not considered to harm the setting of the Grade II* listed building. These have been designed, and the design amended, during the consideration of this application, to be reflective of a commercial building and have an intervening car parking area to set them away from the listed building.

The dwellinghouses proposed in Area 2 are set further away from the listed building and the topography and distance allows for greater flexibility in the domestic nature of the buildings. The building in Area 1 essentially provides a visual transition between the historical, industrial character of the Mill and the dwellinghouses in Area 2.

In this respect, the new development is considered to respect and integrate with the Grade II* listed building and will be an improvement on the previous industrial buildings that were located in close proximity to the building and therefore improve the setting of the listed building.

In terms of the physical works to the listed building, these are considered in detail in the concurrent listed building consent application (15/00394/LBALT). In this respect, it is concluded that the minor impacts on the building fabric are off-set by bringing this building back into a viable use to safeguard its future.

4. Design, Character and Appearance of the Proposed Dwellinghouses
As detailed above, the design ethos of the proposed development is considered an acceptable approach in the context of the listed building. In terms of detail, the dwellings in the block forming Area 1 have been modified from the initial submission. The changes have included the following:

- removal of frontage planting and grassed areas to provide a hardstanding reflective of the parking area to a commercial building;
- the grouping and recessing of the doors to reduce the visual sense of domestic type doorways.

In terms of materials, there is a desire to have traditional materials and red brick would be appropriate in this context. Slate or tiled roofs would be expected for the dwellinghouses in Area 2. However, given the ‘commercial’ character and appearance of Area 1, it is considered that a more ‘contemporary’ material, such as grey coated metal, would serve to emphasise a tradition in building type between the Mill and the dwellinghouses in Area 2.

With regard to the dwellinghouses proposed in Area 2, these have been amended from the original, contemporary ‘north light’ proposed development and have adopted a more traditional form with the traditional pitched roofs and the introduction of chimneys. Whilst the dwellinghouses are proposed to have a more contemporary approach to window and door detail, and with the incorporation of metal clad detailing, this creates a degree of integration with the dwellinghouses in Area 1. It is considered that these dwellinghouses should not take on a ‘mill workers’ cottages’ appearance; the proposal is considered a
more honest form of development than trying to create a uniformed, pastiche of buildings which, in any event, would not have existed historically in this location.

Given the nature and relatively tight development proposed, it is considered reasonable to remove the permitted development rights for all extensions and additional buildings in order to safeguard the character and appearance of the development and the amenity of the residents. It is likely that all properties will require garden sheds and therefore a condition can be attached requiring details of their nature and positioning.

5. Highway Matters
The Local Highway Authority has assessed the proposals and sought revision to the positioning of the new access. In this respect, and given some alterations to the internal access, parking and manoeuvring areas, there is now no objection to the proposals subject to appropriate conditions being attached with respect to the construction and renovation works of the development and the latter usage.

6. Impact on Trees
The trees along the eastern boundary make a significant contribution to the character and appearance of this area and the gateway to the town. All the trees are proposed to be retained safe for the ones required to be felled to achieve the new access. Whilst the original proposed access would have been preferable in order to have the least impact on the trees, it is unfortunate but necessary to relocate the access to meet with the necessary requirements for its formation. This will require conditions to ensure that the adjacent trees are protected and that methods of construction are used to prevent harm to the roots of the trees. In this respect, a detailed design of the bridge and access will be required as a condition on any grant of planning permission.

7. Ecology Matters
DWT has raised concern with regard to the extent of survey work with regard to reptiles and bats. However, given the nature of the development proposed, and the importance attributed to the renovation of the Grade II* listed Mill, it is considered unreasonable to refuse planning permission on the basis of the impact on protected species. In this respect, it is considered reasonable to attach conditions that further survey work is undertaken and mitigation measures detailed, to safeguard protected species.

8. Archaeological Matters
The Development Control Archaeologist has considered the Archaeological Report submitted by the applicant, and further information submitted during the course of considering this planning application.

The Development Control Archaeologist has commented on the application. It is advised that within the mill itself it seems clear that impacts will be very light – evidenced by the ‘floating’ timber floor treatment that will retain and keep partially exposed the sequence of stone and brick floors within the building. There is consequently no requirement under NPPF para 141 for any archaeological interventions/recording in these areas.

Along the Ecclesbourne River the proposed flood works and new access will have no impact. The proposal to remove the existing concrete bridge may however impact upon the stone revetment and paved spillway beneath, and an agreed set of measures will need to be in place during construction to ensure that these elements are carefully conserved and retained. This could be achieved through a planning condition requiring the submission of a method statement before commencement.
The surviving mill race and penstock features to the north and south of the mill, and the wheelpit preserved beneath the concrete capping to the west of the mill, will be preserved in situ and are not impacted by the development proposals. The concrete capping to the wheel pit will be left in place.

An area of concrete ramping corresponding to the probable site of the gas engine house, to the west of the capped wheel pit, will be reduced in level as part of the proposals, and this may expose earlier engine bases or other evidence for former uses. This area should therefore be subject to archaeological watching brief during level reduction to allow these remains to be recorded and interpreted in line with NPPF para 141.

9. Flood Risk and Drainage
The Environment Agency has given careful consideration to the proposed development. It has advised that there are no objections to the proposal but conditions are reasonably required with respect to flood protection, works to flood wall, finished floor levels and culverts under the new access road.

10. Impact on the Amenity of Neighbouring Residents
The development is set away from, and on a lower level to, the nearest existing residential properties at Snowfield View and there will be no significant impact on the light, outlook or privacy of the occupiers of these properties. It is considered that no other properties will be affected by the proposals and that adequate space is provided between dwellinghouses within the proposals to not lead to amenity issues for future residents.

11. Conclusion
Part 1 of this ‘Issues’ section set out the local and national policy guidance that apply in assessing the merits of this application. The District Council’s adopted Local Plan can still be the primary consideration in assessing planning applications. However, following on from the Local Plan Inspector’s finding on Objectively Assessed Housing Need in July last year, and the subsequent withdrawal of the Local Plan, the Council is currently having to assess 5 year housing land supply on the 6500 figure he provisionally identified. This figure not only sets a higher supply need, but the Council also have to add buffers for historic undersupply of 20% and incorporate a backlog into the target. Therefore, the Council are still unable to demonstrate a 5 year housing land supply.

In the absence of a 5 year housing land supply, the guidance in paragraph 49 of the NPPF is clear that the housing policies of the Local Plan are out of date. Accordingly, both Policies H4 and SF4 carry no weight in the consideration of this substantial housing application, just outside the urban fringe of Wirksworth, and the Council are directed to paragraph 14 of the NPPF in particular and the framework as a whole, to reach a balanced judgement on the merits of an application.

Paragraph 14 requires the decision maker in assessing the merits of an application to grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Inspector on the recent appeal decision at Asker Lane approached this balancing exercise by weighing the benefits and adverse impacts in terms of the three dimensions of sustainability, namely economic, social and environmental. It seems entirely logical to approach this scheme in the same manner.

As described above, the Council has a shortfall in housing land supply and the proposed development will make an important contribution to meeting the shortfall in supply, which lends substantial weight to supporting the scheme. The social benefit of sustainability is
addressed with the provision of additional dwellinghouses to meet future need. The development is also an opportunity to open this historic site to the public which is considered a potential benefit of the overall scheme.

The economic dimension of sustainable development would be served by the employment generated during construction and by a benefit to businesses in the town from additional resident spend. The employment element of the site, with the re-use of the Mill buildings, will significantly benefit the area with employment opportunities.

In environmental terms, the site comprises a Grade II* listed building and its wider curtilage. The Mill had fallen into a degree of disrepair, to the extent that it has been included in the listed buildings at risk register. In this respect, the preservation of the Mill, and its re-use, are of significant environmental benefit. The preferable approach to reusing this historic site would be to convert the Grade II* listed Mill into an open plan commercial use. However, it is considered, in the modern world, that few uses could benefit from such a sensitive conversion and the applicant has to create a viable conversion if the building is to have longevity. It is considered that the applicant’s approach is the most appropriate and, with the plywood and glazed walls, will allow for relatively easy reversal of the subdivision in the future. The use of glazing will in strategic locations will allow the original sense of space to be understood.

The proposed new build will have some impact on the setting of the Mill, as did the poor quality, large, functional, block work and sheet roofed building that existed on the site. It is considered that the replacement buildings (Area 1) are a sensitive approach to redeveloping this site and their ‘commercial’ design acts as an appropriate foil between the historic Mill and the dwellinghouses in Area 2. The dwellinghouses in Area 2 have also been redesigned to have a more typical appearance of dwellinghouses in the area, albeit utilising modern detailing.

There are some impacts on the trees along the road frontage, but this has been kept to that reasonably necessary. Flora and fauna around the site will be affected to some degree but, with appropriate planting and possible biodiversity enhancements, it is not considered that this will be unduly impacted upon.

When all of the above matters are weighed in the balance, the impacts are significantly outweighed by the substantial benefits of the employment and housing development and the safeguarding of the heritage asset. The proposals are considered appropriate and beneficial to the town and the District, and it is recommended that planning permission be granted subject to conditions.

**OFFICER RECOMMENDATION:**
That planning permission be granted subject to conditions with respect to the following matters:

**Time limit of the permission**

**Accordance with Amended Plans**

**Phasing plan for the mill conversion with respect to the new build development**

**Materials and detailing**

**Local Highway Authority matters**
Access/bridge construction details

Tree Protection

Ecology matters

Environment Agency and land drainage requirements

Archaeological Watching Brief

Open space provision

Permitted development rights removal

Details of any garden sheds

NOTES TO APPLICANT:
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 the application.

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

This decision notice relates to the following documents:

Amended Drawings
Development Appraisal received on 11\textsuperscript{th} June 2015
Amended Haarlem Mill Design and Access Statement with Heritage Impact Statement received on 11\textsuperscript{th} June 2015
New Development Design and Access Statement received on 11\textsuperscript{th} June 2015
Preliminary Masonry Repair Specification received on 18\textsuperscript{th} June 2015
Flood Risk Assessment received on 11\textsuperscript{th} June 2015
Extended Phase 1 Habitat Survey received on 11\textsuperscript{th} June 2015
Desk-Based Assessment and Historic Building Survey received on 23\textsuperscript{rd} June 2015
Arboricultural Report received on 11\textsuperscript{th} June 2015
Tree Location Plan received on 23 September 2015

There will also be the requirement for additional notes with respect to land drainage and highway matters.
15/00382/FUL

Malthouse 13a North End, Wirksworth
THE SITE AND SURROUNDINGS:
North End is a mainly residential street punctuated with retail units and offices. The property is a first floor workshop and office set between residential properties on the western side of North End. The building stretches some 28m to the rear from the street frontage. The ground floor is used as a cinema, also hosting ancillary events, and has ancillary bar facilities.

The property is within the Wirksworth Conservation Area and is subject to an Article 4 Direction controlling alterations to its external appearance. The street frontage is largely terraced with listed buildings to the south east side of the road and most other buildings in North End are subject to the Article 4 Direction.

THE APPLICATION:
Part retrospective, full planning permission is sought for the following:

Decking
This is set on the flat roof which has been sound insulated from the cinema below; this is set above the storeroom serving the cinema. The decking would be used for the purpose of the staff of Curiosa and Curiosa, the applicant’s business, for the purposes of utilising the space during lunch and breaks. In this respect, the applicant’s partner has advised that the area would only be used during office hours and a restriction on the times of usage would be acceptable.

There is no access proposed to the decking area other than through the workshop. The applicant advises that there is, and will be, no access to this area by patrons of the cinema. No machinery will be used on the decking other than for its maintenance.

Ventilation Unit
The applicant has advised that the ventilation unit has sound insulation to protect neighbours from mechanical noise in line with the acoustic report submitted with the planning application for the cinema (ref: 12/00678/FUL). It is proposed that the hoods would be painted dark grey or olive green to make them merge with the surroundings. The area of roof that has not been covered in decking is proposed to be planted to provide some screening of the ventilation hoods.

Boiler Flue
The applicant advises that the existing outlet was installed on the south wall by the previous owners. It is now proposed, on the advice of plumbers, that the flue is brought through the roof. This would have a flue of approximately 600mm in height and is proposed to be finished with a black enamel.

Trellis
This is proposed to be of woven willow and to sit proud of the rear section of the side wall by 500mm and the rear wall by 1.2m.
Satellite dish
This is proposed to be mounted on a pole set on the rear elevation of the building or provided on the south, side elevation where there is currently a bracket for a previous dish.

Wood burning stove flue
This has been provided on the north side roof of the building, extending some 2m above it, and the applicant advises that this was verbally agreed with, and chosen by, a neighbour prior to installation.

The applicant considers the objections raised by the neighbours seem to be of more of a personal nature and the potential for use by cinema goers, which would not be the case.

RELEVANT HISTORY:
13/00083/FUL Change of use of former retail storage space to workshop/office/showroom (Use Class B1) (retrospective) - Granted
12/00678/FUL Change of use to cinema with ancillary bar facilities and associated changes to entrance frontage - Granted
04/01/0005 Change of use of first floor to retail showroom - Granted
1188/0837 Change of Use of first Floor to Offices - Granted

CONSULTATIONS:
Town Council – No objection

REPRESENTATIONS:
A total of five letters of representation from neighbours. The comments can be summarised as follows:
- no objection to use by staff of the business
- not advised of the opening hours of the premises
- question use by staff and the business and whether it will be used for social purposes during or outside business hours
- limit usage until 6.30 pm on Monday – Friday to give consideration to neighbours
- should restrict number of people using the decking
- place a ban on music/radios being played
- should not be for entertainment or promotional purposes
- predict that it would be used for private parties
- conversations on the decking can be clearly heard by neighbour
- question whether machinery will be involved in the use
- object if the decking area is to be used by cinema visitors
- not aware that the flat roof has permission and was previously a pitched, corrugated iron roof – premature to consider the decking if the concrete roof has not been approved and owner should re-apply
- structure is a heavy-duty, interlocking galvanised metal shuttering overlaid with iron mesh encased concrete – decking is the final stage of a major reconstruction
- gives impression of decking being laid on an historic structure/stone wall
- consider the concrete roof more appropriate to use than decking which will require maintenance
- wood burner flue is conspicuous and ugly and dominates the view from neighbour’s garden and blights the architectural integrity of a handsome Georgian malthouse
- advice should be requested from the fire service on the management of the wood burning stove at night
- satellite dish will be an eyesore, depending on its exact size and location
- moving the satellite dish and boiler flue onto the roof adds to concern about usage of the decked area – if being used by staff and for maintenance they do not need moving and should stay out of sight
- a second, large television aerial has already been installed on the outside wall
- trellis would diminish the honesty of the appearance of the building
- trellis should be attached to applicant’s side of the wall, not set in the centre of it, and it should not cause damage to neighbours’ property
- drystone walls to side and rear of the property have been raised
- concern over the consultation process
- application form completion misleading
- refer to disturbance caused by the cinema and disregard to existing planning restrictions
- gate proposed would give access to neighbour’s property over which there is no right of way right of access to Chapel Lane - question the need for a gate

Policies:
1. Adopted Local Plan 2005
   SF1 Development Within Settlement Frameworks Boundaries
   SF5 Design And Appearance Of Development
   EDT7 Extension And Expansion Of Existing Industrial And Business Land And Premises
   EDT8 Design And Appearance Of New Industrial And Business Premise
   NBE16 Development Affecting A Listed Building
   NBE21 Development Affecting a Conservation Area

2. National Planning Policy

3. National Planning Policy Framework

Issues:
1. The key matters to consider are the impact of the proposals on the character and appearance of the Wirksworth Conservation Area and the amenity of occupiers of the neighbouring residential properties.

2. In terms of visual impact, it is considered that the alterations are relatively minor, recessive and well concealed from the public domain. In this regard, the proposals will preserve the character and appearance of the building, the Conservation Area within which it is located and will preserve the setting of the listed buildings on the opposite side of North End. It is considered that, whilst the satellite dish could be relocated to a less prominent position on the building, the proposed location on a post on the rear end gable is also in a recessive location with respect to public view. As such, the proposals are considered to comply with Policies SF1, SF5, EDT7, EDT8, NBE16 and NBE21 of the Adopted Local Plan (2005).

3. It is considered, with the height of the altered walls and the modest screen fencing, that the impact on neighbour’s privacy or outlook would not be significant. In terms of the impact of noise, it is considered that this would amount to little more than noise normally attributed to people being in their rear garden, and would not be of such harm to justify refusal. However, it is considered reasonable to attach a condition that the outdoor space is only used by staff and visitors to the applicant’s company, and that it is only used between the hours of 8.30 am and 6.30 pm.
4. Given the above, it is recommended that planning permission be granted subject to a condition with regard to restricting the time and by whom the outdoor area can be used.

OFFICER RECOMMENDATION:
Planning permission be granted subject to the following condition:

1. The outdoor area, the subject of this permission, shall be for staff and visitors only in association with the workshop/office premises, the subject of this application, and shall not be used outside of the hours of 8.30 am and 6.30pm.

Reason
1. To ensure that the approved use of the outdoor area does not impact significantly on the amenity of neighbouring residents to comply with Policy SF1, SF5, EDT 7, EDT8 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005).

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

This decision notice relates to the following documents:

Site Location Plan 1:1250 received on 2nd June 2015
Block Plan 1:500 received on 2nd June 2015
Layout Drawings received on 2nd June 2015
Elevation Drawings received on 2nd June 2015
Annotated Photographs received on 2nd June 2015
Additional information from the applicant and her partner received on 4th, 7th and 29th September 2015.
15/00267/OUT

Land to rear of Riber Lea, 33a Starkholmes Road, Matlock

Derbyshire Dales DC

Date: 22/10/2015

100019785
ERECTION OF SINGLE STOREY DWELLING (OUTLINE) AT RIBER LEA, 33A STARKHOLMES ROAD, MATLOCK

Town Council: Matlock Date of receipt: 16.04.15
Application type: Outline Case Officer: Mrs H. Frith

THE SITE AND SURROUNDINGS:
The application relates to a lawned garden area to the rear of the dwelling known as ‘Riber Lea’. The site is enclosed by high hedges and mature trees. The site is relatively level with a slight incline from the access point. Access to the site is proposed to the north eastern corner along the access road which runs from the site to the north and along the boundary adjacent to St Giles School leading out onto Starkholmes Road. The access point to the site itself is to the east with a narrow piece of land giving access into the site. The site is covered by Tree Preservation Order no. 035/A1.

THE APPLICATION:
Outline planning permission is sought for a single dwelling with access being included as a matter for consideration. In accordance with the submitted supporting statement the dwelling would be of approximately 150m² with a ridge height of 6.5m located centrally within the site and with its principle outlook being to the south. Two parking spaces are proposed for the development within the site boundary.

A tree survey has been submitted with the application which notes the following:
The only trees on the site are a group of overgrown Leylandii near to the access. There are trees on neighbouring land which overhang the site.

Hedge 1 to the northern boundary is a screen between the school and the site and is to be retained. It is mainly hawthorn and has a height of 1.4m and a depth of 3m.

Hedge 2 to the western boundary of the site divides the curtilage of Riber Lea and will be retained to form the northern boundary. It is a hawthorn hedge to a height of 1.6m with a depth of 3m.

Hedge 3 is to the eastern boundary of the site and is a cypress hedge which is overgrown at 4m high and 3m deep. This hedge provides screening and will be retained.

The Leylandii trees to the access are overgrown, they suppress more attractive trees on the neighbouring site to the west. Whilst these trees are to be retained their removal would probably be beneficial.

No trees are to be adversely affected by the proposal, none will significantly overshadow the site and no building development or hard surfacing will occur within the root protection zones.

RELEVANT HISTORY:
DDD/0596/0285 Incorporation of agricultural land within residential curtilage – Permitted with conditions

DDD/0296/0084 Incorporation of agricultural land into domestic curtilage and use of land for storage of caravans – Refused for the following reason:
The use of this field for the storage of the caravans and for additional garden area would result in the establishment of non-essential uses in an area of attractive open countryside which should be protected from such harmful and unwarranted development. The proposed development would also be conspicuous when viewed from the Derbyshire Special Landscape Area to the south east, east and north east. As such the proposals are contrary to Derbyshire Structure Plan Environmental Policy 6 and General Development Strategy Policy 4, Derbyshire Special Landscape Areas Local Plan Proposal 2 and Derbyshire Dales Local Plan Revised Deposit Edition Policies DC3, DC4, DC16 and H14.

Appeal submitted and a split decision issued by the Inspector, the storage of caravans was dismissed and the use of the land as garden was allowed.

WED/0895/0503 Erection of detached garage – Refused for the following reasons:

This proposal would result the establishment of a non-essential residential use and building within an area of attractive open countryside which it is considered should be protected from harmful and unwarranted development.

WED/0589/0427 House and garage – Permitted with conditions (Riber Lea)

WED/0989/0608 Dwelling (Outline) – Permitted with conditions (Riber Lea)

CONSULTATIONS:

Town Council –
- Development is outside of the settlement framework boundary defined in the local plan
- The proposed access is close to the entrance to the Primary School, adding to congestion at busy times and increasing risks from traffic to pupils and parents
- Implications for wildlife in the area.

Local Highway Authority –
As the application is outline with only approval for access being sought, there are no objections from a highway safety viewpoint. Furthermore, as an acceptable level of forward and emerging visibility can currently be achieved without involving third party land, there are no recommended conditions to include in any consent from a highway safety viewpoint.

However, when the full application is submitted or any outline application which seeks a layout approval, some thought will need to be given to ensure all vehicles (including delivery vehicles) can enter the site, turn and exit in a forward gear. Also, clear proposals on how the bins will be collected will also be required as the site is a significant distance away from the public highway; well in excess of the maximum man-carry distance.

DCC Tree Officer -
The outline application does not provide details of a building layout but does provide the location of the nearest trees that could influence design.

The tree survey is only indicative and does not actually include the Root Protection Areas as per British Standard 5837:2012 but, if the girth measurements are correct the largest trees, T6 and T7 require a minimum stand-off distance of 8.4m
and 9.6m respectively. This would roughly equate to no building or excavations in the bottom third of the site.

If outline consent is granted, a more detailed tree survey and impact assessment should be submitted at full planning stage. The survey should be carried out to British Standard 5837:2012 by an appropriately qualified arboriculturist.

**Derbyshire Dales Ramblers** –
No objection providing that footpath 52 is not affected during or after construction.

**Peak and Northern Footpaths** –
No objection provided that the safety of walkers using footpath 52 over which vehicular access to the site would run, would not be compromised by the development.

**DCC Rights of Way Officer** –
Please make the applicant aware of the legal line of the footpath no. 52. No applications which affect the site have been received under section 53 of the Wildlife and Countryside Act 1981. Recommend footnote.

**REPRESENTATIONS:**
7 letters of objection have raised the following concerns:

**Principle issues**
Agree with Matlock Town Council comments
Precedent for increased density on Riber hillside
Outside the settlement boundary
Beyond the existing building line on Starkholmes
Restriction imposed on 33A some years ago restricting domestic curtilage on the east side of the property, the dwelling is outside of this curtilage

**Character of Riber Hillside**
Intrusion onto the Riber hillside
Harmful impact upon landscape character
Compromise the integrity of Riber hillside
Should be refused for reasons similar to those used to reject development adjacent to Netherclose Farm

**Highway safety**
Use of school junction will be a hazard
The lollipop lady will not continue from September
Traffic increase at the access will be a danger to pupils and parents
No rational access to the highway
The access is shared with St Giles School

**Ecology**
More concrete for wildlife to cross
Adverse impact upon wildlife

**POLICIES:**
Adopted Derbyshire Dales Local Plan (2005)
SF5: Design And Appearance Of Development
Before assessing the planning merits of this particular application, it is important to set out the policy context (local and national) and the weight to be given to the different components of the development plan. Conformity or conflict with the policy context will then need to be weighed in the planning balance with other material considerations.

The Derbyshire Dales Local Plan is the sole development plan for the area. Its policies have been saved and continue to have force where consistent with the NPPF.

The National Planning Policy Framework (NPPF) was published in March 2012. Whilst the Framework does not change the statutory status of the development plan as the starting point for decision-making (Paragraph 12), in accordance with Paragraph 212 the policies contained within the Framework are material considerations which must be taken into account.

Paragraph 214 of the Framework gave full weight to existing plan policies for 12 months from March 2012. Paragraph 215 advises that beyond the end of March 2013, due weight should still be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The current application therefore needs to be determined having regard to Paragraph 215 advice.

Paragraph 14 advises that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date Local Plan; and also in circumstances where the development plan is absent, silent or relevant policies are out-of-date granting permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

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

The calculation of the five year supply figure for housing in the current circumstances has to be based on the Council objectively assessed needs. The Council sought to promote a local plan on a figure of 4400 in summer 2014 but were forced into withdrawing that plan because the Inspector who chaired the first two days of the examination in public concluded that this figure did not actually reflect the objectively assessed need which he
concluded was in the region of 6500 and the Council had not fully demonstrated why this or a higher figure could not be met through available sites and/or cooperation with neighbouring authorities. Until the Council are able to fully justify an alternative figure any calculation of five year supply in the interim has to be based on this indicative OAN figure of 6500. The Council, even allowing for the recent granting of permission at Asker Lane in Matlock and on the assumption that Ashbourne Airfield and Leys Farm in Ashbourne and Bakers Lane in Doveridge will soon be issued as decisions, cannot currently demonstrate a supply of developable sites equivalent to five years plus 20% as required by the NPPF.

The Adopted Local Plan
Policies SF4 and H4 of the Local Plan deal with settlement frameworks and development in the countryside. It is important to reflect on how these sit with the NPPF, what conclusions Planning Inspectors have reached on their applicability and how this impacts on the planning balance.

The Council received the decision on a housing appeal at Asker Lane, Matlock at the start of July. The Council sought to argue in this instance that the landscape harm outweighed the benefits of the scheme. The Council agreed with the appellants that they were unable to demonstrate a 5 year housing land supply and this remains the case. The Inspector concluded that having regard to paragraph 49 of the NPPF in the absence of a 5 year supply both policies H4 and SF4 had to be viewed as out of date and should be disregarded in the planning balance which instead should focus on the wording of paragraph 14.

The other local plan policies quoted above remain largely in tune with the aims of the NPPF and as such can continue to carry weight in decision making.

The National Planning Policy Framework and Paragraph 14
In accordance with the above and in the absence of a 5 year supply of deliverable housing sites the NPPF directs decision making on planning applications to the guidance in paragraph 14.

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

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

The remainder of this report will analyse the scheme against this policy requirement taking into account other material planning considerations.
Principle of the development
The site is on the edge of the market town of Matlock. Given the need for housing within the District all opportunities for development in sustainable locations, such as this, need to be carefully considered. The application site is within a sustainable location in terms of the proximity to services and facilities, public transport and employment. Whilst in general terms the Local Planning Authority would not consider backland development of rear gardens to be appropriate, in this case the easy division of the land, the extent of amenity space to each property and the separate access result in a form of development that is considered to be appropriate. In principle development in this location is acceptable.

Character and Appearance
The application site is an area of garden land that forms part of the landscape to the east of Starkholmes Road close to the open fields of Riber hillside leading up to Riber Castle.

Concern has been raised that the development of this site will be an infringement on the hillside approaching Riber Castle and therefore the development will have an adverse impact both upon the landscape character of the area and upon the setting of Riber Castle itself.

The locality has been assessed for its landscape sensitivity to development. Whilst Riber hillside is sensitive to development it is considered that there is scope for development in discrete pockets of land most closely associated with the existing development on the edge of Starkholmes, without causing undue harm to landscape character and appearance. In view of this analysis it is considered that the development of this site which is garden land and has the character of garden land with significant screening from the wider hillside will assimilate well into the existing built up area as logical consolidation of the settlement. It is appreciated that the development of the fields in general to the east of Starkholmes Road would likely have adverse impact upon landscape character. However it is not considered that the development of this area of garden land closely constrained by existing development will have a significant adverse impact upon the landscape character of the area.

The site is some considerable distance from Riber Castle. However, it is acknowledged that the setting of a listed building can be far reaching. It is considered that the development of this site will assimilate well with the prevailing pattern of development and will not be conspicuous in views from or to the castle such that it will not have an impact upon the setting of the listed building. Therefore the proposal complies with policies NBE16 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

As the applicant has specified that the proposed dwelling would be to a maximum height of 6.5m it is considered reasonable to ensure this is the maximum height via condition, in order to minimise the visual impact of the proposal.

Highways
In terms of highway safety, concern has been raised that the development will have an adverse impact upon the safety of those using the school in terms of additional congestion at the access and an adverse impact upon pedestrian safety. The Local Highway Authority have considered these matters and have concluded that as an acceptable level of forward and emerging visibility can currently be achieved without involving third party land, there are no concerns or conditions to be recommended from a highway safety viewpoint.
However, the Local Highway Authority do note that when the reserved matters application is submitted consideration will need to be given to ensure all vehicles (including delivery vehicles) can enter the site, turn and exit in a forward gear. Also, clear proposals on how the bins will be collected will also be required as the site is a significant distance away from the public highway; well in excess of the maximum man-carry distance. These matters can be appropriately dealt with under the reserved matters therefore there are no highway concerns with regard to granting outline planning permission.

Trees
Tree Preservation Order (TPO) no. 035/A1 covers almost the entirety of the hillside in this location. There are no trees on the main part of the application site, the lawned garden. Close to the access there are two groups of conifer trees, these trees are overgrown and are not covered by the TPO. A number of the trees adjacent to the site are protected and would have the potential to be harmed by development on this site. The applicant’s agent has submitted a basic survey of the trees and hedges surrounding the site. As the proposal is in outline form only and the siting is not being considered at this stage it is considered that there is sufficient space available on the site to site a dwelling whilst also ensuring protection of the adjacent trees. The Tree Officer at Derbyshire County Council has considered this proposal and has concluded that the largest trees on the adjacent land would require 8.4 m and 9.6m protection areas, which would equate to no buildings or excavations within the bottom third (south) of the site. It is therefore considered that the Outline application is acceptable in terms of the impact on trees and that it is reasonable to impose a condition at this stage which will require a detailed Arboricultural survey and impact assessment to be submitted as part of the reserved matters.

Ecology
Whilst concerns have been raised that the proposal will have an adverse impact upon wildlife in the locality there is no evidence to conclude that this lawned garden provides an important habitat for any particular species. None of the existing trees and hedges are intended to be removed as a result of this proposal, although it should be noted that landscaping of the site is a matter reserved for subsequent approval. Notwithstanding this any harm to protected species would be adequately covered by other legislation including The Wildlife and Countryside Act 1981.

Conclusion
Paragraph 14 of the NPPF requires the decision maker in assessing the merits of an application to grant permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.

The golden thread running through the Framework is for development to be sustainable. As noted above there are three elements to sustainability, the economic, social and environmental roles. In terms of these roles the proposed development is considered as follows:

In terms of the economic role, this would be fulfilled in that the development itself would generate employment during construction and when occupied the additional dwelling would support existing businesses in the town.

In terms of the social role of sustainability this would be met as the dwelling would provide a further dwelling to meet the housing needs of the District.
The environmental role of sustainability requires the development to be acceptable in terms of protecting and enhancing the natural, built and historic environment. Good design is indivisible from good planning and is a key aspect of the environmental role of sustainability. In this regard whilst it is acknowledged that the hillside approach to Riber Castle is sensitive to further development it is considered that the development of this particular, well screened garden site, would not adversely affect the character and appearance of the landscape. Matters of siting and design and tree protection would form part of a reserved matters application. It is therefore considered that the proposal fulfils the environmental role of sustainability in accordance with the core principles and Part 7 of the National Planning Policy Framework and Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan.

In this regard there are no significant or demonstrable adverse impacts which would outweigh the benefit of providing an additional dwelling to meet the housing need the proposal meets the requirements of paragraph 14 of the National Planning Policy Framework.

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

1. Condition ST01a: Time limit on Outline
2. Condition ST03a: Submission of Certain Reserved Matters: (delete category d)
3. The ridge height of the dwelling hereby approved shall not exceed 6.5m

Reason:
1. Reason ST01a
2. Reason ST03a
3. To minimise the visual impact of the dwelling in the interests of landscape character in accordance with Policies SF5, H9 and NBE8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.
4. Reason LA2: in accordance with Policy NBE6 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework.

NOTES TO APPLICANT:

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to access.
2. With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 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.

3. The applicant is advised that Matlock Footpath No 52 runs down the access track to the site outlined in red on the site location plan: -
   - The route must remain open, unobstructed and on its legal alignment at all times
   - There should be no disturbance to the surface of the path without prior authorisation from the rights of Way Inspector for the area.
   - Consideration should be given to members of the public using the path at all times
   - A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. The applicant should be made aware that at least 5 weeks notice is required to process the closure and an alternative route should be provided if possible.

4. This decision notice relates to the following documents:
   Design and access statement received 28.04.15
   Tree Survey received 09.07.15
   Tree Survey plan A3
   Site plan with access received 11.06.15
   Location plan received 28.04.15
   Schedule of trees
   Amended red edge plan and certificate received 10.09.15
15/00282/FUL

Pinetrees, Lumsdale

Derbyshire Dales DC

Date: 22/10/2015

100019785

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Derbyshire Dales District Council,
Town Hall, Bank Road, Matlock, Derbyshire DE4 3NH.
Telephone: (01629) 761100.
website: www.derbyshiredales.gov.uk
THE SITE AND SURROUNDINGS:
The application site is a large garden area associated with the existing dwelling being a small stone built property with conservatory additions, this building is the former counting house associated with the nearby historic industry of the Lumsdale Valley. The site is within the Lumsdale Conservation Area and immediately adjacent to the scheduled monument which is the Lumsdale Valley. There are significant trees along the western boundary which whilst not protected trees are within the Conservation Area and of significant amenity value. The site is of varying topography but generally is at a higher level to the north of the site and lower level to the south. There are dilapidated walls and former structures within the centre of the site. The site is enclosed with stone walling. Residential properties are located to the east of the site and to the west the open fields fall steeply away from this site.

THE APPLICATION:
Planning permission is sought to erect a replacement dwelling on the site whilst retaining the existing counting house building in its original form. Also proposed is a detached garage.

Whilst the scheme has been significantly altered during the application process, through negotiation with a number of consultees, the proposed scheme is now to erect a detached dwelling to the southern end of the site fronting to the north. The proposed dwelling would be of a basic ‘L’ shaped form with a double fronted traditional appearance to the front elevation and an elongated gable to the rear. To the eastern elevation facing onto the highway the dwelling would have an almost blank gable and a high boundary wall would be rebuilt to the site boundary. Larger openings are proposed to the less visible western elevation of the rear gable fronting into the site. The building would be of traditional materials; stone and clay tiles with painted timber windows and door.

The existing counting house building would be retained as an ancillary building to the main dwelling and the existing unsightly additions would be removed to repair and restore this historically important building.

Towards the centre of the site the existing access would be retained and a single storey garage structure erected which would be of materials to match the proposed dwelling with a part open frontage to the garage facing the south of the site.

It is then proposed that the walls within the garden area which define the varying topography would be partly repaired and restored.

A tree report was submitted as part of the application.

RELEVANT HISTORY:
14/00875/FUL Extensions to dwelling and erection of garage – Withdrawn
CONSULTATIONS:
Parish Council – Previous comments apply. Those previous comments were:
No objection but the Council feels that a site visit and Impact Study on the trees in
the area would be advantageous as the property is within a Conservation Area and
as such should be in keeping with the rural setting.

Local Highway Authority – Three parking spaces are to be provided within the site. No
objection. Recommend conditions.

Derbyshire Wildlife Trust – From a site visit we would advise that the proposal is unlikely to
result in any substantive ecological impacts. The proposal will involve the removal of
some trees and shrubs which could provide bird nesting habitat, therefore
recommend standard condition.

Historic England – We note that the plans reflect the discussions at the meeting of the 22\textsuperscript{nd}
July 2015 and refer you to the advice of your Authority’s Conservation Officer.

It should be noted that Historic England had objected to the original proposal which
resulted in the application being withdrawn.

Development Control Archaeologist – I confirm that my previous comments still stand and
recommend that the application be determined in line with the advice of the Local
Planning Authority’s Conservation Officer and of Historic England.

The previous comments of the Development Control Archaeologist were as follows:
The proposal site is within the Lumsdale Conservation Area and is immediately
adjacent to the Scheduled Monument of Lumsdale Mills. An entry on the Derbyshire
Historic Environment Record (HER 10048) records a former lead smelting cupola on
the site of ‘Pond Cottages’, built in 1748-51 and converted into cottages around 1790.
‘Pinetrees’ appears to have been the counting house for the former cupola site and is
therefore a heritage asset with a strong contribution towards the significance of the
conservation area and the setting of the Scheduled Monument.

The nature of this contribution to the significance of the Scheduled Monument lies
substantially in the extent to which ‘Pinetrees’ can be experienced and understood as
part of the grouping of 18th century former cupola buildings at Pond Cottages. This is
primarily appreciated from the frontage along the road between Pond Cottages and
‘Pinetrees’, and is supported by the survival of historic (though probably not
necessarily original) drystone wall boundaries to the street frontage and in the
paddocks behind ‘Pinetrees’.

The revised proposal certainly represents a lessening of harm to the setting of the
Scheduled Monument, in that the former counting house building (‘Pinetrees’) is
retained as a separate entity which references the street and the group of buildings
opposite, and the new build is set back from the frontage therefore reducing its
impact and massing from this viewpoint.

In addition to the setting of the Scheduled Monument the proposals may impact the
significance of the Lumsdale Conservation Area, and I recommend therefore that the
application be determined in line with the advice of the local planning authority’s
conservation officer in this regard.
Having visited the site I advise that the development proposals will not have a direct impact upon below-ground archaeological remains. The drystone boundaries and terracing of the site are likely to represent a 19th century re-ordering, and the changes in level are associated with deep deposits of made ground dating to this time. Because ‘Pinetrees’ remains as a separate entity with little significant alteration I do not feel that a formal programme of historic building recording is justified. There is consequently no need for further archaeological work in relation to these proposals.

Conservation Advisory Forum from August 2015 -
This application was discussed by the CAF in May 2015. Location and design negotiations are continuing and an alternative proposal has now been tabled. This new proposal (location and design) has been considered by the CAF and their comments are set out below:

- The current proposal locates the new dwelling to the southern end of the site and its design is a traditional form of two-storey house with an attached one and half storey range. CAF acknowledged that this new location was, primarily, to negate any issues with the trees to the western boundary of the site.

- CAF discussed the current proposal and considered that the location was uncomfortable with the existing building and had little coherence to the site and context. Whilst the design was, in form, traditional this was not considered appropriate for this part of the site/context. CAF concluded that this proposal did not conserve or enhance the character and appearance of the area or the Conservation Area.

- CAF considered that the previous linear proposal was a better conceptual approach for this site and its context. Whilst the previous scheme utilised the change in level on the site this raised significant issues relating to the trees.

- CAF have stated previously that a contemporary approach to the design on this site could be explored. CAF opined that an innovative design concept/scheme could make use/advantage of the change in level in association with an architectural/constructional management strategy for the trees. Such an approach to design, form and construction could alleviate issues with tree root areas and if the part of the building facing the trees was conceived with areas of contemporary glazing this would allow maximum light filtration into the dwelling (and alleviate potential over-shadowing issues).

- CAF considered that the garage should be only one-storey in height.

The previous comments of the Conservation Advisory Forum from May 2015 in relation to this application were:
CAF were reappraised of their previous comments, given in January 2015 in relation to the withdrawn application for an extension to the ‘Counting House’

- Overall Members considered that the revised scheme which indicates a separate and detached property is preferable to the previous proposal which linked the large and extensive new build to the existing cottage.

- However, Members considered that the premise of designing a ‘faux’ barn (also considered to have a too long and unbroken ridge-line) and associated inappropriate ‘threshing’ barn opening was unacceptable and not in keeping with the character and appearance of the Conservation Area.

- Similarly, the large detached garage was also considered too large and would compete with the existing cottage.
It was recommended that a more ‘honest’ design of building is required which does not present an unsympathetic analogy to bogus heritage. In this regard, Members considered that a house of either a contemporary, or traditional, appearance would be more appropriate.

Materials for the buildings should reflect either the modern or traditional approach taken.

Members also recommended that the garage is reduced to a more modest size/scale.

It was suggested that whilst parts of the site may not be visible from adjacent or close to the site, that views should be checked from the other side of the valley (i.e. Asker Lane)

REPRESENTATIONS:
Seven letters of objection have been received which raise the following concerns:

• The revised plans are not an amendment to the proposal; this should be a new application
• As a replacement dwelling you would need to remove the counting house
• The counting house could be claimed as a separate dwelling
• The title replacement dwelling is farcical
• The site is prominent within the Conservation Area
• The dwelling will be prominent and cannot be described as preserving or enhancing the Conservation Area
• No other buildings in the area are to this height
• A smaller dwelling would be more in keeping
• Adverse impact on the counting house itself
• The development will be harmful to this sensitive area
• The building will be out of scale with the Pond Cottages
• Contrary to Policy NBE21
• Contrary to the Archaeologist’s guidance
• The revised plans still show a property of excessive size
• The garage will overwhelm current buildings and could be a future conversion
• Will cause harm to the landscape contrary to the Landscape Appraisal Spatial Analysis
• This is the third revision on this site
• The dwelling should be located elsewhere on the site away from other properties
• Whilst the trees are of value so is the historic environment in this locality
• Development so close to the pond is of concern due to impact upon the historic setting
• Regret the felling of the Scots Pines
• Heavy traffic during construction will decimate the local environment
• The area should be preserved for future generations
• The development will set a bad precedent

Five letters of support have been received which raise the following comments:

• Pleased this site has been saved from developers
• The family are from Lumsdale and would not want to spoil the area
• The proposal fits in well with the environment
• The proposal is supported by Historic England and the Development Control Archaeologist
• The ‘Counting House’ will be retained
• The proposal will not detract from the beauty or historic significance of the Lumsdale Valley project
• Traffic generation for a single dwelling will be minimal
• This will add to the charm of the area
• Heavy construction vehicles will not pose a problem as large vehicles were used to dredge the ponds.

POLICIES:
Adopted Derbyshire Dales Local Plan
SF4: Development In The Countryside
SF5: Design And Appearance Of Development
H6: Replacement Dwellings In The Countryside
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 Woodland
NBE8: Landscape Character
NBE21: Development Affecting A Conservation Area
NBE24: Archaeological Sites And Heritage Features
NBE26: Landscape Design In Association With New Development
TR1: Access Requirements And The Impact Of New Development
TR8: Parking Requirements For New Development

Other:
Lumsdale Conservation Area Appraisal
National Planning Policy Framework
National Planning Practice Guidance

ISSUES:
The following issues are to be considered: the principle of the development, the revised scheme and need for negotiation, impact on the character and appearance of the Lumsdale Conservation Area and the setting of the adjacent Scheduled Monument, impact upon trees, highway safety matters and impact on amenity.

Principle
Policy H6 of the Adopted Derbyshire Dales Local Plan allows for replacement dwellings in open countryside locations where; the number of dwelling units is not increased, renovation and/or repair of the original is not a more satisfactory alternative and the replacement dwelling and ancillary buildings do not have a detrimental impact upon the character and appearance of its surroundings.

In this case the existing ‘Counting House’ although a very small building does have a residential use. Therefore adding a further dwelling to the site would result in two dwelling in total on the site. The ‘Counting House’ is an important building connected to the history of the locality and therefore it is considered important that this building is retained. However it is a very small building which cannot be easily extended without having an adverse impact upon its character and appearance. Therefore the applicants propose to erect a dwelling to replace this and then utilise the ‘Counting House’ as an ancillary building to the new dwelling. In order to achieve this, a S106 legal agreement will be necessary to rescind the use of the ‘Counting House’ as a separate dwelling. It is considered that subject to such a legal agreement the proposal meets the basic criteria of this policy in that only one dwelling unit will be retained on the site.
Submission of Revised Scheme

It is acknowledged that the application site is in a very sensitive location for new development. The site is not only within the Lumsdale Conservation Area but also immediately adjacent to the Scheduled Monument of the Lumsdale Valley. Therefore development on this site has to be considered in terms of the impact of the development upon the character and appearance of the Conservation Area, but also upon the setting of the adjacent Scheduled Monument.

In this respect the design and siting of the proposed dwelling has been significantly altered due to negotiations between the applicant, their agent, the Case Officer, the Development Control Archaeologist and Historic England. Originally a proposal was submitted to extend the ‘Counting House’, this was withdrawn from consideration due to concerns regarding the extent of extensions onto this small but important building. The applicant then submitted a further scheme for a replacement dwelling which raised concerns in terms of the proximity of the proposed dwelling to the significant trees to the rear of the site. In view of these concerns the scheme was further revised to what is being considered under the amended plans.

Whilst the Local Planning Authority would generally ask an applicant to withdraw an application and submit a further scheme for full consideration this was not considered a reasonable approach in this case, as the applicant had already submitted this application as the revised application following withdrawal of the first application. In order to ensure all neighbours were adequately informed of the concerns a full re-consultation was carried out on the submission of the amended plans.

Character and appearance

To each of the proposals the Conservation Advisory Forum has raised concerns regarding the design and the approach taken by the applicant’s agent. In finalising a revised scheme the comments of the Forum were taken into account where the Forum Members considered that ‘a house of either a contemporary, or traditional, appearance would be more appropriate’. After following this advice and finalising a revised scheme the Forum have raised further concerns and considered ‘that the revised location was uncomfortable with the existing building and had little coherence to the site and context. Whilst the design was, in form, traditional this was not considered appropriate for this part of the site/context. CAF concluded that this proposal did not conserve or enhance the character and appearance of the area or the Conservation Area’. In considering the differing scheme the Forum have become contradictory in their comments which then makes it difficult to adopt a design approach which would satisfy their views on the type of development that would be appropriate on this site.

In terms of the proposed dwelling a traditional design approach has been considered as appropriate given the sensitive nature of the site and the difficulty there would be in creating a modern design approach to the site which may result in contradictory opinions as to the suitability of the design. It is considered that the design approach is in keeping with the site and surroundings. The use of traditional materials and the largely blank elevation to the street will ensure that the building sits well within the southern end of the site with a strong boundary wall detail being restored to the boundary with the land. These factors along with the dwelling fronting to the north will ensure that the dwelling does not become an overly dominant structure within the locality. Furthermore the topography of the site will result in development at the southern end, having a lesser finished height and will
therefore assist in the recessive nature of the proposed dwelling. The siting of the dwelling has also ensured there is an appropriate separation distance between the proposed dwelling and the ‘Counting House’ to ensure the detached setting of that building is preserved.

Subject to detailed conditions regarding the finish the development, the boundary treatments and the landscaping of the site the proposed dwelling is considered to be appropriate in the surroundings. The works proposed to restore the site and the ‘Counting House’ will overall enhance the character and appearance of the area and will ensure the preservation of the ‘Counting House’ as an important local building.

The erection of the detached garage being to the north of the site and of a traditional form and materials will sit within the site context as part of a wider range of buildings and is therefore considered to be acceptable.

**Trees**
The revised siting of the building will ensure that the significant trees along the western boundary will be preserved. The proposed dwelling is a sufficient distance from the trunk of the trees in this location to ensure no harm to the health of the trees and no resulting pressure to fell the trees should occur as a result of the proposed development.

**Highway Safety**
The Local Highway Authority is satisfied that the existing access is appropriate for the development and that sufficient on-site parking will be provided. The proposal is therefore acceptable in terms of highway safety.

**Amenity**
The siting of the dwelling and the relationship with other existing dwellings is such that the proposed development will not adversely impact upon the amenity of neighbouring residents. The construction of the dwelling and garage may have some impact in terms of noise and nuisance to neighbouring residents and therefore it will be appropriate to add a condition restricting the times of operation on site.

**Conclusion**
The proposal for a replacement dwelling meets the criteria defined in Policy H6 of the Adopted Derbyshire Dales Local Plan as only one unit will be created, the repair of the original building will take place as part of the proposal and the proposed dwelling and ancillary buildings are considered appropriate in this sensitive environment. In all other respects the proposal meets local and national policy requirements. The application is therefore recommended for approval subject to conditions and the signing of a S106 agreement to rescind the separate independent use of the existing dwelling.

**OFFICER RECOMMENDATION:**
That planning permission be granted on completion of a S106 legal agreement to rescind the separate independent use of the existing dwelling.

1. Condition ST02a: Time limit on full

2. Condition ST06a: Amended application revised plans: 1950/101/1 received 08.09.15, 1950/101/2 received 08.09.15, 1950/101/4 received 08.09.15, 1950/101/3 received 08.09.15
3. No removal of trees or shrubs shall take place between the 1st March and the 31st August inclusive unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds nests immediately before any vegetation is cleared and provide written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on the site. Any such written confirmation should be submitted to and agreed in writing by the Local Planning Authority.

4. Before any operations are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of sites operatives and visitors vehicles together with the loading/unloading and manoeuvring of goods vehicles, designed and laid out and constructed all as may be agreed with the Local Planning Authority in advance of construction work commencing and maintained free from impediment throughout the duration of construction works.

5. The former residential unit shall remain ancillary to the occupiers of the new main residence only with no third party, commercial, business use.

6. The premises, the subject of the application, shall not be occupied until on-site parking and turning spaces have been provided for in accordance with the applications drawings, laid out and constructed all as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to designated use.

7. Prior to the occupation adequate bin storage and a bin dwell area for use on refuse collection days shall be provided as per the application drawings clear of the public highway, within the site curtilage clear of all access and parking and turning provision and retained thereafter free from impediment to designated its use.

8. Condition IC19: restrict operating hours 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays or at any time on Sundays and Bank Holidays.

9. Prior to the commencement of any other works on site the existing conservatory type lean to additions to the ‘Counting House’ shall be removed from the building. Unless otherwise agreed in writing by the Local Planning Authority.

10. Prior to the commencement of development a scheme for the restoration/repair of the ‘Counting House’ shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

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

12. Samples and construction details along with details of the geological source and where considered necessary sample panels, of all materials (including the chimney) to be used in the construction of the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority before the commencement of development. The development shall be constructed in accordance with the approved details.
13. The roof lights hereby approved shall sit flush with the plane of the roof.

14. Prior to commencement of development details of all new external window and door joinery and/or metal framed glazing, along with the finished paint/RAL colour shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include depth of reveal, details of heads, cills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections (including sections through glazing bars) at not less than 1:2. The development shall be carried out in accordance with the approved details.

15. Prior to the commencement of development, details of the overall height, coping and materials of construction of the proposed boundary walls, including the wall within the centre of the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

16. Condition PD10: Permitted Development - Barn Conversions

17. Prior to the commencement of development details of the hard and soft landscaping of the site including samples of materials where necessary shall be submitted to and approved in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

18. Condition LA8: Detailed sections of land levels

Reasons:

1. Reason ST02a

2. For the avoidance of doubt

3. In order to protect nesting birds in accordance with Policy NBE4 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.

4-7. In the interests of highway safety in accordance with Policies TR1 and TR8 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.

8. To protect residential amenity in accordance with guidance contained within the National Planning Policy Framework.

9-15. To ensure an appropriate finished form of development in accordance with Policies SF5 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.

16. To protect the development form inappropriate future alterations/extensions in accordance with Policies SF5 And NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.

17. To ensure an appropriate finished form of development in accordance with Policies SF5, NBE21 and NBE26 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.
18. To ensure an appropriate finished height of the development in accordance with Policies SF5, H6 and NBE21 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning policy Framework.

Footnotes:

1. The Local Planning Authority have both prior to the submission of the application and during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to design and siting.

2. With effect from the 6th April 2008, the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 (SI 958/2008) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 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.

3. This decision notice relates to the following documents:
   Amended application revised plans for the proposed dwelling and garage: 1950/101/1 received 08.09.15, 1950/101/2 received 08.09.15, 1950/101/4 received 08.09.15, 1950/101/3 received 08.09.15.
   Site location plan received 22.04.15
   Existing plans 1950/14/100 received 22.04.15
   Background information sheet received 22.04.15
15/00429/FUL

11a Little Bolehill, Wirksworth

Derbyshire Dales DC

Date: 22/10/2015

100019785
THE SITE AND SURROUNDINGS:
The application site is a sloping area of agricultural land with a plateau on the eastern part of the site. On the plateau there is a barn which was granted planning permission in 1999; the barn has been constructed in blockwork and is still to be fully faced with stone.

The land to the north of the barn has been turned over to hardstanding. There is a meandering access track up the slope of the field on the western side of the site which links to the lane into Little Bolehill. The field in which the barn is set comprises some 1.4ha. This is in the applicant’s ownership and lies directly opposite Nos. 14, 16 and 18 Little Bolehill and extends to the rear of 11 and 11A Little Bolehill.

The site lies in open countryside within the Wirksworth Conservation Area and close to the boundary of the Bolehill Conservation Area.

THE APPLICATION:
Full planning permission is sought for the erection of an agricultural equipment and fodder store building on an area of hardstanding to the north of the existing field barn. It should also be noted that this application has been submitted further to the dismissal of Prior Approvals for an agricultural building on the site in July 2014 (ref: 13/00704/AGR) and 13th April 2015 (ref: 14/00538/AGR).

The building is now proposed to measure 13.4m wide by 6m deep and 5m high. The building would be constructed with natural stone walls and a blue slate roof. There is proposed to be tree planting on the bund to the west of the site. The application site is otherwise screened by existing mature woodland and a conifer hedge. The building is also proposed to be re-orientated and set further back on the site than previously proposed building. The proposed building has also been reduced by some 3m in depth and 0.8m in width with the height being similar compared to the previous proposal (ref: 14/00538/AGR).

The application site is 1.4 ha in area and the applicant rents a further 6 ha at Duke Street in Middleton-by-Wirksworth. The applicant advises that he has farmed the site for several years and, whilst the existing field barn is now being converted into an office, the remainder of the site would be in agricultural use. Previous storage was in the field barn loft.

However, further to stating the above, the applicant has now advised that the use of the building as an office is a fall-back proposal if planning permission is not granted for the storage building. It is advised that if the applicant cannot store fodder at the site, it will be inconvenient to keep livestock there, in which case the office use of the building is a way of making use of the site. The applicant advises that this was all put before the previous appeal Inspector, who raised no concern about that possibility. The applicant considers that the appeal was dismissed solely on the grounds of the non-traditional appearance and its impact on the landscape, so those are the only issues which should now be under consideration. The office conversion has not yet been implemented and if the current
application is granted, it is proposed that the remainder of the site will continue with agricultural activity on the site.

The applicant refers to the reason for dismissal of the Appeal with respect to the previous Prior Approval application was solely based on the design being ‘unsympathetic to the surrounding traditional stone buildings which characterise the Conservation Area’. The applicant considers that, the proposed building is now of ‘traditional’ form and materials, and that this overcomes these concerns. The applicant advises that the height is the minimum to house a tractor. The applicant also considers that housing the fodder and machinery in the open would be far more discordant than within the proposed building.

The applicant’s agent advises that his client’s use of the barn as an office is a fall-back position if the storage building is not approved as, without fodder storage, it will be inconvenient to keep livestock. It is advised that this was all put before the previous Planning Inspector who raised no concern about this possibility, solely dismissing the Appeal on the non-traditional appearance and the impact on the landscape.

RELEVANT HISTORY:

15/00210/FUL Surfacing access drive with tarmacadam - Granted
14/00760/VCOND Variation of condition 4 of planning permission 09/00085 to allow modified landscaping scheme for access track supplementing existing planting with native hedge planting – Refused – Appeal allowed
14/00538/AGR Agricultural prior notification - erection of fodder store – Refused – Appeal dismissed
13/00704/AGR Agricultural Prior Notification – Erection of agricultural storage building – Appeal APP/P1045/A/14/2216629 against non-determination - Dismissed
13/00687/CLPUD Certificate of lawfulness of proposed use – conversion of agricultural building to guest house – Appeal against non-determination - Dismissed
12/00113/AGR Erection of fodder/agricultural store - Refused
11/00220/FUL Extension to agricultural building for livestock – Refused – Appeal Dismissed
ENF/09/00107 Extension to agricultural building and extension to hardstanding – Appeal APP/P1045/C/10/2121253 Dismissed
09/00469/FUL Extension to agricultural building, extension to hardstanding and improvements to agricultural access track – Refused – Appeal APP/P1045/A/09/2114971 Dismissed
09/00085/VCOND Retention of development without compliance with Conditions 2, 3 and 4 of planning permission 07/01024/VCOND - Granted
07/01024/VCOND Retention of development without compliance with Condition 1 of planning permission DDD/1298/0814/C to allow variation of surface treatment of access track - Granted
DDD/0799/0501/C Erection of Field Barn - Granted
DDD/0499/0210/C Erection of Agricultural Barn - Refused
DDD/1298/0814 Retention of Access Track - Granted

CONSULTATIONS:

Town Council – Object:
- inconsistent with the development plan for the Little Bolehill area
- traffic and highway safety issues – the original plan was for a building for agricultural usage thus the increased traffic / storage of wide girth farming equipment in an area which already has significant issues with parking will be of a concern to all
- scale of development, design, appearance, layout and material is very confusing now - originally a new barn to replace an older one, then agricultural usage then back to an attempt to convert to residential now storage of vehicles on land where we understand that no animals have been present for over 10 years
- meant to be the garage to accompany the other building on site
- the proposed change of use would have a detrimental effect on area, especially as the previous applications have not been adhered to (hedges and track) and the imposing nature of this building does not sit well when viewed from across the valley as per Star Disc.
- aware of a number of residents who have expressed concern regarding the development and ask that these concerns also be considered.

Local Highway Authority – No objection provided the use is only in support of the existing farming activities carried out on the surrounding, controlled farmland

**REPRESENTATIONS:**

One letter of representation from a local resident. The comments are summarised as follows:

- obtrusive by design
- in special landscape area, outside village development area
- agricultural buildings are isolated to small field barn – already one on the site
- building of this size only appropriate if attached to a farmstead – not one on the site
- would be visible if leylandii hedge was removed which he is required to do
- visual intrusion with requirement for further hardstanding
- agricultural need for the development cannot be justified
- former fodder storage barn has been converted to other uses
- little agricultural grazing land remaining – fodder store cannot be justified
- land is too steep for agricultural implements to be used on the land
- if implements bought for storage from the holding 2 miles away would cause traffic and highways hazard in the village
- turning onto the road would cause a risk to other highway users

**POLICIES:**

1. Adopted Local Plan 2005
   SF4 Development in the Countryside
   SF5 Design and Appearance of Development
   EDT13 Buildings Associated with Agriculture, Forestry or Other Rural Based Enterprise
   NBE3 Other Sites of Importance for Nature Conservation
   NBE8 Landscape Character
   NBE21 Development Affecting a Conservation Area
   TR1 Access Requirements and the Impact of New Development

2. National Planning Policy Framework

3. National planning Practice Guidance

4. Wirksworth Neighbourhood Plan (2015-2028)
5. Wirksworth and Bolehill Conservation Area Appraisals

ISSUES:

1. Background to Application
The application follows an application for Prior Approval for an agricultural building, which was dismissed at Appeal in March 2015, albeit with amendment to its size, height and materials.

2. Policy
Before considering the proposal, it is considered necessary to set out the current policy considerations. In terms of current planning policy, the Adopted Derbyshire Dales Local Plan (2005) is given significant weight in cases where the policies are compliant with the National Planning Policy Framework. Where the policies of the Adopted Local Plan are not compliant with advice within the National Planning Policy Framework, then the National Planning Policy Framework takes precedence.

In this case, Policies SF4, SF5, EDT13, NBE8 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005) are considered to be of particular relevance to the consideration of this application and, because they are consistent with the National Planning Policy Framework, they continue to carry substantial weight as the primary consideration in decision making. The Wirksworth Neighbourhood Plan also seeks to ensure proposals strengthen and improve the landscape and settlement qualities (Policy NP1) and that the quality and character of development is acceptable (Policy NP2).

2. Assessment
The proposal is for a relatively large building set in an elevated location in the open countryside which would be visible in views within the wider Wirksworth Conservation Area. A modest field barn currently exists on the applicant’s holding close to the proposed site for the agricultural building which has been recently granted Prior Approval to be used as an office in line with the government’s revision to permitted development rights.

There appears to be a limited scale of farm operation on the land and there are no other buildings on this holding. The sensitive landscape for the proposed development has been recognised by previous Planning Inspectors who have considered various development proposals on the site. A previous Planning Inspector advised the following:

....I find that the scale and siting of the proposal, on a plateau at the top of a steep slope, would lead it to appear as a prominent and intrusive feature, particularly in distant views. This intrusiveness would, I find, result in it failing to assimilate into the landscape. I consider the harmful impact of this would not be mitigated to a significant extent by existing and proposed trees and landscaping. The proposed development would not be completely screened but would still be visible above and between landscaping and/or trees.

In addition to the above, I find that the proposal would relate poorly to the existing barn. It would, I find, appear overly large, awkward and dominant, particularly in views of the two buildings together. This would create an uncomfortable, imbalanced relationship, to the detriment of local character.

Taking all the above into account, I find the proposed development would be detrimental to the character and appearance of the Wirksworth Conservation Area. This would be
contrary to the Framework and to Local Plan policies SF4, SF5, EDT13, NBE8 and NBE21, which together amongst other things, protect local character.

Rather than make the positive contribution desired by paragraph 131 of the Framework, the proposal would harm local character. The harm caused would be significant in terms of the immediate context of the proposal, but is less than substantial in the context of the Conservation Area as a whole. In these circumstances, paragraph 134 of the Framework should be weighed against any public benefit. There are no public benefits resulting from the proposal.

However, the applicant has sought to reduce the scale the building and to re-orientate it and locate it to the rear of the site, where it is likely to be less conspicuous in views. This has to also be assessed in the context of a recent Appeal decision that has allowed the conifer hedge provided along the access road to remain; the height of these trees, and the other such trees and shrubs the applicant has planted on the bund in foreground of the proposed building, without the need for any formal consent, will ultimately screen the building.

The applicant has proposed to use stonework in the construction of the proposed building to reflect upon that of the existing field barn and as a response to comments made previously by Planning Inspectors about how this relates to the field barn. However, it is the view of Officers that the building should appear as a lower status building to the stone faced field barn. In this respect, it is considered that the building should be clad with a dark coloured green/grey sheeting to emphasise this.

3. Highway Issues
The Local Highway Authority has raised no objection to the proposal provided the activity is in association with the applicant’s surrounding land. However, the applicant currently stores farm equipment in the open, at the application site for use in this wider holding. In this respect, it is considered by Officers that it reasonable to require that the agricultural building is only used for the purposes of the applicant’s holding and for no other usage.

4. Conclusion
There is a significant amount of planning history associated with the application site. It has always been considered by Officers that a modern agricultural building would be visually intrusive on the site and the agricultural activity on the land is questioned. This is particularly the case when the applicant has sought, and now has approval for, the field barn to be used as an office, bringing some doubt as to the level of agricultural activity.

However, the applicant rents land in Middleton-by-Wirksworth for the purposes of agriculture and, as it is rented land, he does not wish to erect a building on such land that he does not own. The applicant has advised that he is seeking to use the application site for agricultural purposes but, given that previous agricultural buildings have been refused, he sought an alternative use with the office proposal, which he currently undertaking works to the field barn to create. However, the applicant’s agent has indicated that his client would be prepared to forego such a use as an office, if he could have the additional building and utilise the site for agricultural purposes.

In this respect, given that the proposed agricultural building has been reduced in scale and set in a more recessive location on the site, it is considered reasonable to grant planning permission for the building provided it is clearly used for agricultural purposes to justify it being there. In this respect, and on balance, it is considered that planning permission
should be granted subject to the applicant entering into a unilateral undertaking that the existing field barn is only used for agricultural purposes, relinquishing in that respect the office use and clearly demonstrating an agricultural use of the land.

OFFICER RECOMMENDATION:
That subject to the applicant entering into a Section 106 unilateral undertaking to relinquish the use of the existing field barn as an office, planning permission be granted subject to the following conditions:

1. Condition ST02a Time Limit on Full

2. Notwithstanding the details on the approved drawings, the building hereby approved shall be clad with a dark coloured green/grey sheeting in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

3. The building hereby approved shall only be used in the operation of the applicant’s agricultural holding.

Reasons:
1. Reason ST02a

2. To ensure the satisfactory appearance of the development to comply with government guidance contained in the National Planning Policy Framework and to comply with Policies SF4, SF5, EDT13, NBE8 and NBE21 of the Adopted Derbyshire Dales Local Plan (2005).

3. In the interests of highway safety.

NOTES TO APPLICANT:
1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in agreement that the proposed building will be metal clad and a unilateral undertaking would be provided to not utilise the existing field barn as an office which overcame initial problems with the application relating to justification of the development.

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

This decision notice relates to the following documents:

Site Location Plan 1:1250 received on 25th June 2015
Block Plan 1:500 received on 25th June 2015
Elevation and Layout Plan 1:100 received on 25th June 2015
Design and Access Statement received on 25th June 2015
Additional Information received on 24th September and 19th October 2015.
15/00580/FUL DEMOLITION OF GARAGES AND ERECTION OF FOUR DWELLINGS AT LUKE LANE GARAGE COURTYARD, OFF THE PLAIN, BRAILSFORD FOR DALES HOUSING

Town Council: Brailsford  Date of receipt: 08.08.2015
Application type: Full  Case Officer: Mr Chris Whitmore

THE SITE AND SURROUNDINGS:
The application site comprises a row of garages and associated courtyard area at the rear of no’s 6 – 42 The Plain, Brailsford. The site covers an area of approximately 800sq. m and includes a grassed area to the south east which links through to a turning head, serving properties off The Plain. There is a drop of approximately 2m across the site from the top of the access road to the south east. Pedestrian and vehicular access to the site is between no’s 6 and 8 the Plain. There is a separate (non-vehicular) access through a five bar gate at the south eastern end of the site opposite an electricity substation.

THE APPLICATION:
Planning permission is sought to demolish the existing garages and erect two pairs of semis on the land. It is proposed to erect the first pair of semis at western end of the site. They would be served via the existing access road and orientated so that their principal elevations face west. Parking for up to two vehicles is shown in front of the dwellings. The northern most semi (plot 1) will sit 2m away from the rear boundary of no. 12 The Plain and 3.5m from the rear boundary of no. 10. Access will be maintained to the rear garden of no. 12 which extends up to the site boundary and a shed to the rear of no.8. Each semi will be 5m wide by 9m deep and 7.8m high to ridge (5.2m high to eaves). The semi will be faced in brick and tile and will be simple buildings in their design and form. A small lean to porch canopy is shown above the main entrance doors in the principal elevations. Gardens / private amenity space is shown at the rear of the properties. The hedge along the southern boundary of the site will be cut back to an even line and level. Dwarf walls and railings will border the parking areas serving the proposed dwellings.

The second pair of semis (plots 3 and 4) will mirror the design of the first and be sited at the south eastern end of the site and will be orientated so that their principal elevations face south. The gable of the eastern most semi will sit 3.5m away from the rear boundary of no’s 36 to 42 The Plain. A new private driveway from the turning head will be created to serve the dwellings. The existing substation access is shown to be upgraded.

RELEVANT HISTORY:
None relevant to this proposal.

CONSULTATIONS:
Parish Council:
Consider the proposal to be a much better use of the land. Question what restrictions the housing association will be putting on occupiers of the properties, if they will be offering a shared ownership or if they will be 100% rental. Advise that they would like to see the planning report before making a final comment.

Local Highway Authority:
The site has an existing traffic generating use / potential, however, from the information provided only one of the garages appears to be occupied / in use, at this current time. Whilst the loss of the garaging facilities could encourage vehicles to be parked on public highways nearby, given the actual usage of the existing facilities
and the fact that on street parking is already prevalent on nearby streets, it is unlikely the Highway Authority would be in a position to defend a sustainable reason for refusal on this basis alone.

The site has 2 No access points available, both to The Plain, a non-classified residential estate street. The accesses are generally acceptable in terms of achieving acceptable levels of visibility, however, in the case of the eastern access point this will require the use of adjoining controlled land (blue outline land) to achieve the recommended 2.4m x 25m visibility sightline to the north.

The access route width, in both instances, is potentially below that which the Highway Authority would normally recommend, however, the potential for vehicle conflict associated with just 2 No dwellings will be minimal and certainly less than if the site was fully occupied for vehicle parking.

Therefore, should the proposals be acceptable in planning terms the Highway Authority would not be in a position to raise objection to the proposals on highway safety grounds, having regards to the previous use of the site. A number of conditions and advisory footnotes are, however, recommended.

REPRESENTATIONS:
Three letters of objection have been received which raise the following concerns:
- Loss of privacy – it is considered that the dwellings at the western end of the site will be afforded views into the kitchen and a bedroom of no. 10 The Plain. The occupants of no. 14 The Plain have also raised concerns in relation to overlooking.
- Loss of parking.
- Disagreement with regard to the applicant’s comments relating to anti-social behaviour.
- Impact on the rights of way afforded to rear of a number of properties off The Plain and Luke Lane.

POLICIES:
Adopted Derbyshire Dales Local Plan 2005:
- SF1: Development within Settlement Framework Boundaries
- SF5: Design and Appearance of Development
- SF8: Catering For the Needs of People with Disabilities in Development and Redevelopment
- H1: New Housing Development within Settlement Framework Boundaries
- H9: Design and Appearance of New Housing
- H11: Affordable Housing within the Settlement Frameworks of Other Settlements
- NBE26: Landscape Design in Association with New Development
- TR1: Access Requirements and the Impact of New Development
- TR8: Parking Requirements for New Development

Other:
The National Planning Policy Framework (2012)

ISSUES:
1. The application site is located within Brailsford, within the defined settlement framework boundary for the village as set out in the Adopted Derbyshire Dales Local
Plan (2005). Notwithstanding the District Councils inability to demonstrate a five year supply of housing land, Policies within the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework supports redevelopment of previously developed land for residential purposes within defined settlement framework boundaries where full and effective use of the land is made. Policy H1 also requires that development respects the character, appearance and setting of the settlement. Brailsford is defined as an ‘other’ settlement in the Adopted Derbyshire Dales Local Plan (2005). Policy H11 requires 33% of all dwellings to be affordable on sites capable of accommodating 2 or more dwellings.

2. Policies SF5 and H9 of the Adopted Derbyshire Dales Local Plan (2005) deal with matters of design. Policy SF5 advises that planning permission will only be granted for development where… (a) the scale, density, massing, height, layout, materials of construction and landscaping preserves or enhances the quality and local distinctiveness of its surroundings. Policy H9 requires new housing development to be in scale and character with its surroundings and have regard to distinctive landscape features amongst other considerations. The National Planning Policy Framework is a material planning consideration in development management decisions and states in respect of design that development should add to the overall quality of the area and respond to local character and history, and reflect the identity of local surroundings. It is recognised that good design is a key aspect of sustainable development and should contribute positively to making places better for people.

3. Policy TR1 requires development to be served by a safe access and TR8 seeks to ensure an appropriate level of parking.

4. Having regard to the consultee comments and the aforementioned policies of the Development Plan and national guidance, the key matters to consider in respect of this application are:

   a) would redevelopment of the site respect the character, appearance and setting of the settlement?;
   b) would the proposed dwellings be in scale and character with their surroundings;
   c) the impact on the privacy and amenity of the occupants of neighbouring residential dwellings;
   d) the provision and management of affordable housing, and;
   e) whether there would be any highway safety implications.

5. Dales Housing inherited a number of garage sites across the district when the housing stock was transferred from the District Council. Following a garage occupancy survey in June / July 2015 it was found that only one garage on the site was being used for its intended purpose. The garages are in poor condition and demand for them is low. Redevelopment of the site for housing will increase the affordable housing stock in the local area, a benefit which needs to be weighed in the planning balance.

6. Having regard to whether redevelopment of the site would respect the character, appearance and setting of the settlement, the site is surrounded by residential development. Redevelopment of the existing garages would preserve the character / distinctiveness of this part of the village. A key issue to consider is whether the dwellings would be in scale and character with their surroundings. The existing garages are low buildings with flat roofs. The erection of two storey houses will be
more prominent, particularly when viewed from the service roads between houses. The site is, however, surrounded by two storey terraces and semi-detached houses. The form and scale of the proposed dwellings would therefore be in scale with surrounding built development and the simple appearance of the dwellings would be in-keeping with the properties off The Plain / in the local area.

7. Concern has been expressed with regard to overlooking from the occupants of several properties along The Plain to the north of the site, which benefit from long gardens, some of which has been extended up to the edge of the application site. The position of the proposed semis relative to the dwellings to the north and east, their height to ridge and depth is such that no significant overshadowing of the majority of their gardens would result. The distance between the proposed and existing properties is also such that the proposed dwellings would not appear unduly overbearing when appreciated from the rear gardens of neighbouring residential properties. The concerns raised relate to overlooking and loss of privacy. Although single windows in the gable ends of the proposed semis, which will face in the general direction of existing dwellings to the north and east are proposed, these windows are to be glazed in obscure glass and will serve a bathroom. To safeguard the amenities of the occupants of these properties, this will need to be secured by condition. The distance between the rear walls of the semis in the south eastern corner of the site (plots 3 and 4) and the dwellings to the north is such that there would be no significant loss of privacy. There would be no direct views of neighbouring residential properties from the first floor openings in the rear (east facing) walls of the north western most semis.

8. All of the dwellings on site are to be made available at an affordable rent (80% of market value). Whilst local plan policy only requires for 33% of the total provision to be affordable this is an affordable housing scheme in its totality. A condition is, however, recommended to agree subsequent management and occupancy criteria of the affordable housing to be delivered on site.

9. Turning attention to whether there would be any highway safety implications the Local Highway Authority are satisfied that the proposed dwellings would, subject to conditions to ensure an appropriate level of visibility, be served by safe accesses onto The Plain. Whilst it is acknowledged that the loss of the garaging facilities could encourage vehicles to be parked on public highways nearby, given the actual usage of the existing facilities for the purposes of storing motor vehicles and the fact that on street parking is already prevalent on nearby streets, the Local Highway Authority do not consider that a recommendation of refusal could be sustained on the basis of the loss of parking.

10. Although the occupants of several neighbouring residential properties have raised concerns with regard to the impact on their right of way over the site, the application makes provision for access to a garage at the rear of no. 8 The Plain and the rear garden of no. 10. Where the development would impede a right of way / access over the land, the affected party would need to resolve this with the land owner. This is a civil, as opposed to a planning matter.

11. To conclude, it is considered that redevelopment of the site would preserve the distinctiveness of this part of Brailsford and that the proposed dwellings would be in scale and character with their surroundings and will not adversely impact upon the privacy / residential amenity of the occupants of neighbouring residential properties in
this case. Whilst it is accepted that the development will result in the loss of off street parking, this is not considered to outweigh the benefits of the development nor is it considered, on its own, to constitute a sustainable reason to refuse permission. Subject to appropriate conditions, including a condition to secure the management of and occupancy criteria of the affordable housing, it is therefore recommended that the application be approved.

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

1. Condition ST02a: Time Limit on Full

2. Condition DM1: All materials to be approved – general

3. Condition LA12a: approval of landscaping scheme before commencement of development (delete d, f, I, m, n).

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

5. Before the dwellings hereby approved are occupied the windows in the gable ends of plots 1 and 4 at first floor level (north and east facing elevations) shall be glazed with obscure glass only and the windows shall be permanently maintained with obscure glazing at all times thereafter.

6. The development hereby approved shall not begin until details of the management and occupancy criteria to be used to determine the identity of the occupants of the affordable housing hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The housing shall thereafter be occupied and managed in accordance with the approved details and shall meet the definition of affordable housing at Annex 2 of the National Planning Policy Framework (2012), or any future guidance that replaces it, unless otherwise agreed in writing by the Local Planning Authority.

7. 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 statement shall provide for:
   a. Parking of vehicles of site operatives and visitors
   b. Storage of plant and materials
   c. routes for construction traffic
   d. method of prevention of debris being carried onto highway
   e. arrangements for turning vehicles

   The approved plan/statement shall be adhered to throughout the construction period.

8. The vehicular access route to serve plots 1 & 2 shall be laid out and improved (in terms of surface quality) in accordance with the application drawings prior to occupation of any new dwelling it serves.

9. The vehicular access serving plots 3 & 4 shall be laid out in generally in accordance with the application drawings and provided with minimum 2.4m x 25m visibility splay in each direction, the area in advance of the sightlines being laid out as may be
agreed with the Local Planning Authority and maintained free from any obstructions to visibility over 1m high (600mm in the case of vegetation), relative to the nearside carriageway channel level and thereafter maintained as such for the life of the development.

10. Details of the layout and construction of the new vehicular driveway access serving plots 3 & 4, at its interface with the existing public highway, shall be submitted to and approved in writing by the Local Planning Authority, prior to development commencing on these plots. The approved details being laid out and constructed in accordance with the approved details prior to occupation of any of the new dwellings it serves.

11. The premises, the subject of the application, shall not be occupied until space has been provided within the respective site curtilages for the parking and manoeuvring of residents and visitors vehicles in accordance with the application drawings, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

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

13. There shall be no gates on the access routes within 5m of the public highway boundary and any gates shall open into the site only.

Reasons:

1. Reason ST02a.

2. To ensure the use of appropriate materials in accordance with the aims of Policies SF1, SF5 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework (2012).


5. To safeguard the residential amenity / privacy of the occupants of neighbouring residential properties in accordance with the aims of SF1 and H9 of the Adopted Derbyshire Dales Local Plan and guidance contained within the National Planning Policy Framework (2012).

6. To ensure appropriate affordable housing provision in accordance with the aims of Policy H11 of the Adopted Derbyshire Dales Local Plan (2005).
NOTES TO APPLICANT:

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

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

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

4. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway [new estate street] measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

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

6. NFA20 Conditions Precedent… Conditions 2, 3, 6, 7, 10 and 12.

7. The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request 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:
1:1250 Scale Site Location Plan numbered 14058/L/01
1:500 Scale Block Plan numbered 14058/S/01;
Document Titled Design and Access Statement;
1:200 Scale Existing Topographical Survey Plans numbered 10011-188_3DT (1) and (2), and;
1:100 and 1:200 Scale Proposed Site Layout and Dwelling Elevations Plan numbered 14058/P/01 received by the District Council on the 10th August 2015.
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, blocks D and E and have been undertaken. This application relates to revisions to block C only.

THE APPLICATION:
Planning permission is sought to vary the permission relating to blocks C. Through the progress of the development the applicant is aware that 2 bedroom units are in more demand than 1 or 3 bed units. This application is therefore part of a programme of alterations proposed to the original scheme to accommodate the market demand. This revised scheme involves the addition of a third storey to the main part of the building to the south and an alteration to the siting of the building. Twenty units are now proposed rather than the 16 approved. The elevational alterations are as follows:

**South eastern elevation:**
Approximately two thirds of the building now at three storeys from this elevation
Three storey balcony structure introduced

**South west elevation:**
The external balcony has been removed from the two storey element and double doors introduced which to the upper floor would open internally.
Removal of the clock tower detail
Introduction of two storey external balconies
Less than half the building from this elevation would be three storeys in height

**North west elevation**
The majority of this elevation now shows the three storey element of the building
A central gable feature would remain in a slightly simpler form

**North east elevation**
Three storey external balconies are proposed to the three storey element of the building
Removal of double doors to the two storey element

The whole building is to be relocated 5.5m to the north east in order to avoid the exclusion zone around the utilities that have already been laid for safety reasons. This results in the whole building and site boundary being moved further back into the fields to the north east.

Around the building, planting and hard surfacing is proposed as part of a draft landscape masterplan for this part of the site.

Through the application process the design of the balconies to the rear elevation have been amended to show stone balconies similar to those already approved rather than timber balconies which were not considered appropriate for this prominent building.

**RELEVANT HISTORY:**
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 – Permitted with conditions

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 objection

Highway Authority: There are no highway objections in principle to the proposed modifications sought under the current application, subject to the associated parking areas being laid out and available for use prior to occupation of any of the apartments, the subject of the application.

It is however noted that an existing public right of way runs through the application site, which will need to be formally diverted, as it will be affected by the proposed works. The applicant appears to be aware of this issue and the master-plan drawing, in the application supporting information (Drg. No. 112 Rev B), shows a ‘proposed realigned public right of way’. The applicant should be reminded that a diversion Order, capable of being brought in to use, should be in place prior to works commencing on site, that affect the existing lawful alignment of the public right of way. Recommend conditions and footnote:

Derbyshire Dales Ramblers: No objection provided that footpath no. 22 is not closed or obstructed in any way during or after construction.

Peak and Northern Footpaths: No objections provided that part of footpath no. 22 can be successfully diverted, I am in discussion about this matter with the consultant employed by DDDC to deal with diversion orders.

Derbyshire Constabulary Crime Prevention Design Advisor – No comments

DCC Rights of Way Officer – footpath no. 22 crosses the site, please make the applicant aware of the legal line
No applications which affect the site have been received under section 53 of the Wildlife and Countryside Act 1981. No objection as it appears that the applicant proposes to divert the footpath, recommend advisory note.

REPRESENTATIONS:
None

POLICIES:
Adopted Derbyshire Dales Local Plan (2005)
   SF4: Development In The Countryside
   SF5: Design And Appearance Of Development
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 in order to provide additional units. 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 the re-siting of Block C by 5.5m to the north east will have minimal visual impact when considering the scheme as a whole. The distance of 5.5 m for such significant development has negligible visual impact overall and the extent of built form lies largely within the rope line of the school that formerly occupied the site.

Due to the raising of the height of the main part of the building to the southern end of the structure, the proposal will have a differing impact from the previously approved scheme. The third storey, in landscape terms, will be seen in conjunction with the adjoining buildings on the site which already are approved for three storeys. The design detail, the revised design of the balconies and the general form of Block C is considered to be in keeping with the design intention of the wider site. The siting of this building will be on the edge of the site with the two storey element being to the far northern end of the building, reducing the stature of the building towards the edge of the site as it assimilates into the sloping landscape behind.

The proposed building will be a mix of render and stone to match the other buildings on the site. Moving away from the core of the site stone is used much less to demonstrate a hierarchy of development, with the most substantial and formal buildings with more stone work being within the core of the development. The extent of stonework proposed to the building which is in the most part to the ground floor only is considered to be acceptable.
Landscape design in terms of surfacing materials and planting will need to be considered in detail via conditions to ensure an appropriate finish to the site.

The proposal is considered to meet the policy requirements in terms of visual impact 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
No concerns have been raised by existing residents regarding the alterations to Block C. The proposal is considered to be acceptable in terms of the interrelationship between neighbours on the site between the buildings proposed. At the closest point this block will be approximately 16m away from the existing Block D and 16m away from the proposed Block A, inclusive of balconies. 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
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 acceptable 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. The changes to design, appearance, and siting are all considered to be appropriate to the site in keeping with the wider development. Subject to the revised design of the balconies being received the proposal is considered to be acceptable in terms of local and national planning policy.

OFFICER RECOMMENDATION:
That subject to an amended plan being received, authority be delegated to Officers to grant planning permission and 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.

8. Works to trees, including tree protection, shall be carried out in strict accordance with the tree survey shown on plans Tree survey 141114-P-10-01 received 17.08.15, Tree survey 141114-P-10-02, Tree survey 141114-P-10-01 received 17.08.15 and Tree survey 141114-P-10-02 all received 17.08.15, unless otherwise agreed in writing by the Local Planning Authority.

9. Condition ST06: revised plans

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.

8. To protect trees during construction and enable the Local Planning Authority to ensure the retention of trees in the interests of visual amenity in accordance with Policy NBE6 of the Adopted Derbyshire dales Local Plan and guidance contained within the National Planning Policy Framework.

9. For the avoidance of doubt

Footnotes:

1. Footpath footnote – the existing footpath crosses the site to the north of Block C.
   - The route must remain open, unobstructed and on its legal alignment at all times
   - There should be no disturbance to the surface of the path without the prior authorisation from the Rights of Way Inspector for the area.
   - Consideration should be given to members of the public using the path at all times
   - A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. The applicant should be made aware that at least 5 weeks’ notice is required to process the closure and an alternative route should be provided if possible
   - If a structure is to be erected adjacent to the public footpath, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

2. The application site is affected by a public Right of Way (Footpath number 22 – Darley Dale, on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

3. If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council. Please contact Helen Boden of DDDC on 01629 761303 regarding the Diversion.

4. Footnote NFA8

5. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial problems with the application relating to the design of the balconies.
6. 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.

7. This decision notice relates to the following documents:
   Site location plan 15011/SP(BA) 01 Rev A received 17.08.15
   Blocks B and C master plan 112 Rev B received 17.08.15
   Tree protection plan 141114-P-12-01 received 17.08.15
   Tree protection plan 141114-P-12-02 Rev B received 17.08.15
   Design and Access Statement received 17.08.15
   Masonry balcony details 15011 received 17.08.15
   Ground floor GA 15011 Rev D received 17.08.15
   First floor GA 15011 Rev C received 17.08.15
   Second floor GA 15011 Rev C received 17.08.15
   Roof plan GA 15011 Rev B received 17.08.15
   External north west axonometric view 15011 Rev A received 17.08.15
   Tree survey 141114-P-10-01 received 17.08.15
   Tree survey 141114-P-10-02 received 17.08.15
   External south east axonometric view 15011 received 17.08.15
   Side elevations 15011 rev D
   Front and rear elevations 15011 Rev D received 17.08.15
### PLANNING APPEAL – PROGRESS REPORT

Report of the Corporate Director

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<td>15/00106/FUL</td>
<td>Highlands Cottage, Bent Lane, Darley Dale</td>
<td>IH</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00034/OUT</td>
<td>Land off Park Lane, Two Dales</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>15/00480/OUT</td>
<td>Land off Park Lane, Two Dales</td>
<td>WR</td>
<td>Appeal being processed</td>
</tr>
<tr>
<td>14/00894/FUL</td>
<td>Longway Bank Wood, Whatstandwell</td>
<td>WR</td>
<td>Appeal being processed</td>
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</tbody>
</table>

**OFFICER RECOMMENDATION:**

That the report be noted.
Appeal Decision

Site visit made on 12 October 2015

by Sarah Colebourne  MA, MRTPI

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

Decision date: 20/10/2015

Appeal Ref: APP/P1045/A/15/3070040

Chapel Farm, Hollington, Ashbourne, Derbyshire, DE6 3AF

- 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 M Cotton against Derbyshire Dales District Council.
- The application, Ref 14/00771/PDA, dated 7 November 2014, was refused by notice dated 23 December 2014.
- The development proposed is described as prior approval for the change of use of agricultural buildings to 2 no dwellings.

Decision

1. The appeal is allowed and approval is granted under the provision of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use of agricultural buildings to 2 no dwellings at Chapel Farm, Hollington, Ashbourne, Derbyshire, DE6 3AF in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q of the GPDO, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this approval.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1335-01, 1335-02 and 1335-03.

   3) No development shall take place until details of the materials, finish, depth of reveal, details of heads, cills and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections at a scale of not less than 1:2 have been submitted to and approved writing by the local planning authority. The development shall be carried out in accordance with the approved details.

   4) No development shall take place until details of the curtilages of the proposed dwellings, including gardens, bin storage, and parking and turning areas and hard and soft landscape works and an Implementation timetable, have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details and timetable.
Procedural Matters

2. It is clear from the application and the plans that prior approval is sought under both class Q(a) for the change of use and under class Q(b) for the building operations reasonably necessary to convert the building.

3. The provisions of the GPDO 2015 require the local planning authority to assess the proposed development solely on the basis of its impact in terms of transport and highways, noise, contamination, flooding, whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use and the design or external appearance of the building. They also require regard to the National Planning Policy Framework (the Framework) (insofar as it is relevant to the prior approval) as if the applications were planning applications.

4. The Council’s decision contained two reasons for refusal, the unsustainable location of the site and the harm in terms of character and appearance. New guidance in the Planning Practice Guide was introduced after the determination of the application. This advises that a test in relation to sustainability of location can no longer be applied. In the light of this, the Council concludes that this reason for refusal can no longer be sustained and there is, therefore, no need for me to consider this matter further. The Council has also concluded that its objection concerning character and appearance cannot be sustained and I have determined the appeal accordingly.

5. The Council has, however, introduced a new reason for refusal which considers that the proposal does not constitute permitted development. Although introduced at the appeal stage, the appellant has had opportunity to comment on this and has not been unfairly prejudiced. I have, therefore, determined the appeal on the basis of this as the main issue.

Main Issue

6. The main issue is, therefore, whether the proposal satisfies the requirements of the GPDO 2015 with regard to being permitted development for the change of use from agricultural buildings to dwellings.

Reasons

7. In order to benefit from the provisions of Part 3 Class Q of Schedule 2 of the GPDO, the curtilage of the agricultural building must be i) immediately beside or around the agricultural building closely associated with and serving the purposes of the agricultural building or ii) an area of land immediately beside or around the agricultural building no larger than the land occupied by the agricultural building, whichever is the lesser.

8. In this case the application states that the combined floor area would be 282 sq m and the cumulative area of land within its curtilage would be 353 sq m although the submitted site location plan shows a much larger total site area. The appellant says that the curtilage area indicated in the application included both the footprints and curtilages of the buildings. The submitted layout plans, whilst they do not show a red line, clearly show defined, smaller curtilages around each of the two buildings. The appellant’s figures submitted in his final comments accord broadly with my own calculations, indicating that the curtilage of the buildings would be no larger than the land occupied by the buildings.
9. I have noted the other appeal decisions referred to by the Council. In the other Hollington appeal it appears that there was only one plan showing the whole site area rather than the individual curtilages shown in this case. In the Brailsford appeal, the appellant did not contest the curtilage size. These differ significantly from this appeal therefore and I have given them little weight in determining this case.

10. The Council has not raised any objection in terms of the other requirements for permitted development but I have had regard to the objections from a third party which concern the structural condition of the building. The appellant’s structural survey confirms that the structure is sufficiently robust and suitable for conversion with limited work and from what I have seen I have insufficient evidence to conclude otherwise.

11. I conclude then that the proposal meets the requirements of Part 3 Class Q of Schedule 2 of the GPDO and therefore constitutes permitted development.

Other matters

12. The Council has not raised any objection in terms of the other matters which can be considered under such applications but I have noted the objections from other parties which concern highways and siting and location matters.

13. The defined curtilages appear sufficient for the parking of at least two cars per dwelling which would be adequate for the proposed three bedroom dwellings and would allow some of the remaining part of the yard to be used for parking for the original farmhouse. The highways authority raised no objection subject to conditions in terms of access or parking and from what I saw of this quiet rural lane at my site visit I am satisfied that the existing access to the buildings would be safe.

14. Although any garden space would be small there is adequate space for sitting out, drying and bin storage areas for each property which would provide an acceptable standard of outside amenity. Information regarding heating is not required as part of the application and any further development required such as chimneys would require planning permission. The adjacent dwelling is sited on land at a higher level than the appeal dwellings and as there are only rooflights proposed in the nearest elevations of the buildings, the proposed dwellings would not cause undue loss of privacy to the occupiers of Southdown.

15. I am satisfied, therefore, that the proposed development would be acceptable in terms of highways matters and would not be impractical or undesirable in terms of its siting. It would accord with the Framework in these respects.

Conditions

16. The GPDO requires at paragraph Q.2(3) that the development must be completed within a period of 3 years starting with the prior approval date and I have therefore included a condition to that effect.

17. I have also included a condition requiring compliance with the relevant existing and proposed plans, excluding the submitted site location plan, to ensure certainty.
18. The GPDO also provides, under paragraph W(13) of Schedule 2 Part 3, that the local authority may grant prior approval subject to conditions reasonably related to the subject matter of the prior approval.

19. The Council has suggested a condition for the details of windows and doors, including materials and finish, depth of reveals, cills, heads and lintels, elevations at a scale of not less than 1:10 and horizontal/vertical frame sections at a scale of not less than 1:2. This is reasonably related to the proposal because the application includes details of building operations and design and external appearance is a matter for consideration. As full details of the design of the windows and doors are not sufficiently clear from the plans, the suggested scales are not unnecessarily large and will enable the full consideration of further details which are necessary to ensure an acceptable external appearance. I have, therefore, included a condition to this effect.

20. The appellant has referred to another appeal decision in which a condition requiring details of the layout and materials of the proposed curtilage was included and a similar condition is necessary in this case. This would not materially alter the size or location of the proposed curtilages in the submitted layout plans or prejudice the interests of any of the parties but would ensure that the design and appearance of the curtilages were appropriate.

**Conclusion**

21. I conclude that, for the reasons given above, the proposed development satisfies the requirements of the GPDO 2015 with regard to being permitted development for the change of use from agricultural buildings to dwellings and is acceptable in terms of the matters which can be considered. The appeal should be allowed and approval granted.

*Sarah Colebourne*

Inspector
Costs Decision

Site visit made on 12 October 2015

by Sarah Colebourne  MA, MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20/10/2015

Costs application in relation to Appeal Ref: APP/P1045/A/15/3070040
Chapel Farm, Hollington, Ashbourne, Derbyshire, DE6 3AF
- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr M Cotton against Derbyshire Dales District Council.
- The appeal was against the refusal of the Council Authority to grant prior approval for the change of use of agricultural buildings to 2 no dwellings.

Decision

1. I allow the application for a partial award of costs.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The PPG states that the aim of the costs regime is to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, including the presentation of full and detailed evidence to support their case. It seeks to encourage local planning authorities to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case. The National Planning Policy Framework says that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.

4. The Council’s failure to substantiate its reason for refusal concerning character and appearance in its appeal statement or to consider whether conditions could overcome that objection in its officer’s report amounts to unreasonable behaviour and caused the applicant to incur unnecessary expense in the appeal process in contesting that ground for refusal which could otherwise have been avoided.

5. Introducing fresh and substantial evidence at a late stage necessitating an adjournment or extra expense for preparatory work that would not otherwise have arisen are also cited in the PPG as examples of situations in which costs may be awarded. The Council’s introduction at the appeal stage of the size of the curtilage as a reason for the proposal not meeting the requirements for permitted development is unreasonable as this should have been considered at the outset of the process. Its explanation that this only came to light following
receipt of other appeal decisions does not provide sufficient justification because it should have been fully aware of the provisions of the GPDO. Whilst I have had to consider that matter and it is in the applicant's interest that it is resolved, it could have been resolved at the application stage, thereby avoiding unnecessary expense by the applicant in addressing the matter in the appeal process.

6. New guidance in the PPG was introduced after the determination of the application. This advises that a test in relation to sustainability of location can no longer be applied. This is a matter of judgment and, at the time of the decision, the Council was entitled to take that matter into account. The Council could not have foreseen that the PPG would change and did not, therefore, act unreasonably in the inclusion of that matter in its decision. In those circumstances the fundamental differences between the parties could not have been resolved other than by an appeal at that time. The Council's subsequent conclusion that the objection could not be sustained was not unreasonable as it was a response to the policy change. Therefore no unnecessary expense was incurred by the applicant in this respect. However, given my conclusions regarding the other issues referred to above, the appeal could have been withdrawn by the applicant once this became apparent which would have reduced some of the costs incurred in the appeal process, including those associated with the site visit.

Conclusion

7. For these reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has been demonstrated and that a partial award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Derbyshire Dales District Council shall pay to Mr M Cotton, the costs of the appeal proceedings limited to those costs incurred in responding to the Council's objections in terms of character and appearance and the size of curtilage and the site visit; such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

9. The applicant is now invited to submit to Derbyshire Dales District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Sarah Colebourne

Inspector
Dear Sir/Madam

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012, SI No. 605
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES
APPELLANT: MR PETER KEEBLE
SITE: BEECH HURST, 228 DALE ROAD, MATLOCK BATH, MATLOCK, DERBYSHIRE, DE4 3RT

I enclose a copy of our Inspector’s decision on the above appeal.

The appeal decision is final unless it is quashed following a successful challenge in the High Court on a point of law (see enclosed leaflet). If the challenge is successful the decision may be quashed but the case will probably be returned to the Secretary of State for re-determination. However, if it is to be re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

An application under Section 288 of the Town & Country Planning Act 1990 must be made to the High Court promptly and in any event within 6 weeks of the decision in question. This is an absolute time limit that cannot be extended by the Court.

A challenge must be made on one or both of the following grounds:

(1) the decision is not within the powers of the above-cited Regulations;

(2) any of the relevant statutory requirements have not been complied with.

A decision will not be overturned by the Court merely because someone does not agree with an Inspector’s judgment. It would need to be shown that a serious mistake was made by the Inspector when reaching his or her decision or, that the site visit was not handled correctly, or that the appeal procedures were not carried out properly. Even if a mistake has been made, the Court may decide not to quash the decision if it is decided that the interests of the person who has sought to challenge the decision have not been prejudiced.

http://www.planningportal.gov.uk
If you have any complaints or questions about a decision, or about the way we have handled the appeal write to:

Quality Assurance Unit  
The Planning Inspectorate  
4/06 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  

Phone No. 0117 372 8252

Or visit:

http://www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback

The Quality Assurance Unit will investigate your complaint and will endeavour to reply within twenty working days.

Yours sincerely

Environment Appeals Administration

Enc
The Planning Inspectorate

Appeal Decision

Site visit made on 11 August 2015

by Dr Dealga P O’Callaghan, FICFor., F Arbor A, MISA
an Arboricultural Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 September 2015

Appeal Ref: APP/TPO/P1045/4412
Beech Hurst, 228 Dale Road, Matlock Bath, Matlock, Derbyshire DE4 3RT

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a failure to give notice within a prescribed period of a decision on an application for consent to undertake work to a tree protected by a Tree Preservation Order.
- The appeal is made by Mr Peter Keeble against Derbyshire Dales District Council.
- The application Ref: T/14/00138/TPO is dated 21 August 2014.
- The proposed work is to reduce the overall height of a horse chestnut tree by a third and the lateral branches by a similar amount.
- The relevant Tree Preservation Order (TPO) is the West Derbyshire District Council Tree Preservation Order No. 27, Trees at Matlock Bath, which was confirmed on 5 May 1981.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note from the file that the TPO is referenced twice with slightly different titles, one on the order itself and another in the confirmation documents; as follows: The West Derbyshire District Council (1) Tree Preservation Order No. 27 Trees at Matlock Bath – one the order; and (2) Tree Preservation Order No. 27 Trees at Holme Road, Matlock Bath – on the confirmation documentation. However, I am satisfied that there is only one order and the slight difference in the titles could be due to a clerical error.

Main Issues

3. The main issues in this appeal are whether the work applied for is appropriate in the interests of the health of the tree and visual amenity, and whether the reasons given justify the work.

Reasons

The amenity value of the tree

4. The tree is a fully mature specimen of horse chestnut located in the rear garden of Beech Hurst, 228 Dale Road, Matlock Bath DE4 3RT. The garden rises steeply from the road and the property on the side of the valley at this location. The tree is designated as T7 in the TPO which protects 15 individual trees and two groups of trees at this location which is just on the edge of the Matlock Bath conservation area.

http://www.planningportal.gov.uk/planninginspectorate
5. The tree is prominent located as it is at the highest point of the garden. It can be seen by anyone travelling north along Dale Road, but is not obvious to those travelling south as the road bends at No. 228 and this obscures views of the tree. However, it is an obvious feature in the skyline when viewed from the east side of Dale Road.

6. There are many other trees and woodlands in the immediate vicinity and the tree contributes to the sylvan character of the western side of the valley. It follows therefore that any work proposed must been needed and the reasons for the work must be compelling.

Reasons given for the work

7. The reasons given for the work are that the tree has been unmanaged for many years; it is too big for its location; and that it blocks light from the appellant's property and those of some of his neighbours.

8. The issue of loss of light is a common complaint with large amenity trees but is rarely a justification for major crown reductions and certainly not with this particular tree.

9. The fact that the tree has not been managed for many years does not mean that it necessarily requires management now. The tree has attained a good height for its location and has a full rounded crown that is typical of horse chestnuts that have grown in the open and have not been constricted.

10. During the site visit I observed some minor deadwood in the crown, which is normal for trees of this size and age. However, I did not observe any need for management in the form of a major reduction such as that proposed. Although the tree looks relatively healthy I noted that it was heavily infested with horse chestnut leaf miner and this will have reduced the amount of energy available to the tree.

11. In addition, I noted two lesions probably caused by Pseudomonas bleeding canker in the root flares, one on the east side and a second on the south side. At the time of the site visit these were considered incipient but they could get worse and spread across the base of the tree given the reduced energy resources available to the tree as a result of the leaf miner infestation.

12. The extent of pruning proposed would, in my opinion, cause serious harm to the tree. It would reduce the crown area by over 30% all around and this would have the effect of reducing the amount of energy available to the tree even further. It would also result in an unacceptable number of large pruning wounds which the tree would need to compartmentalise (seal off) and this would drain what energy resources the tree had at the time of pruning.

13. Horse chestnut is a species the ability of which to compartmentalise wounds declines with age and this is a fully mature tree. In my opinion it is likely that the wounds would not be completely compartmentalised and this would likely result in decay developing within the wounds, which would compromise the structural integrity of the tree over time.
14. I acknowledge that the appellant is well intentioned and does not want to harm the tree. However, the extent of pruning proposed is excessive in my opinion and would be likely to cause the health of the tree to decline rapidly, such that it would have to be removed.

15. If the tree were to be pruned as proposed it would have a detrimental impact on the visual amenity of the area, which would be worse if the tree had to be removed as a result of the severe pruning.

16. Based on my site visit I find that the reasons given for the proposed pruning carry little weight and that the extent of the pruning is inappropriate for a tree of this age.

Conclusions

17. Having considered all matters raised I find that the extent of the pruning would cause significant harm to the tree and would result in its decline and possible death. Furthermore, taking into account all of the foregoing matters, both individually and in combination, insufficient justification has been provided to justify the level of pruning proposed and the appeal should be dismissed.

D P O’Callaghan
Arboricultural Inspector
Introduction

We can:
- review your complaint and identify any areas where our service has not met the high standards we set ourselves.
- correct some minor slips and errors provided we are notified within the relevant High Court challenge period (see below).

We cannot:
- change the Inspector’s decision.
- re-open the appeal once the decision has been issued.
- resolve any issues you may have with the local planning authority about the planning system or the implementation of a planning permission; we can only deal with planning appeal decisions.

The High Court is the only authority that can require the Inspector’s decision to be reconsidered. Applications to the High Court must be made within 6 weeks from the date of the decision letter for planning appeals, and in most instances 28 days for enforcement appeals. Some other specialist casework types have different processes and timescales; information about which can be provided on request.

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal.

This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to clarify matters as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-consider an appeal or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further planning authority in the case once their decision is issued. It is the role of our Quality Assurance Unit to impartially investigate complaints about decisions, an Inspector’s conduct or supporting administrative procedures. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it.

We also realise that your opinions are important and may be strongly-held.

The Quality Assurance Unit works independently of all of our casework teams and Inspectors. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms.

We aim to reply as soon as we can. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made.

What we will do if we have made a mistake

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector or staff member and line management team concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future.
Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary and Health Service Ombudsman, who can investigate complaints of maladministration against Government Departments or Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"So what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds on all of the evidence whether these views justify refusing planning permission.

"What do the terms 'Allowed' and 'Dismissed' mean on the decision?" – 'Allowed' means that Planning Permission has been granted, 'Dismissed' means that it has not. In enforcement appeals (s.174), 'Upheld' means that the Inspector has rejected the grounds of appeal and the enforcement notice must be complied with; 'Quashed' means that the Inspector has agreed with the grounds of appeal and cancelled the enforcement notice.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will have visited the site and will be aware of local views from the representations people have made on the appeal.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but the Courts have judged it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – The appeal decision will highlight what the Inspector found unacceptable about the proposed development. In some cases it may be possible to address these problems, in which case you should talk to your Local Planning Authority’s planning officers or take advice from a planning consultant.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. You should contact the council as it has discretionary powers to take action if a condition is being ignored.

Further Information

Our Annual Report and Accounts contains details of our performance. It also includes details of how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see below)

Contacting us

Complaints & Queries in England

Please refer to our website: http://www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback/
or write to:
Quality Assurance Unit
The Planning Inspectorate
4/06 Kite Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone: 0117 372 8252

General Enquiries
Phone: 0117 372 8372
E-mail: enquiries@pins.gsi.gov.uk

Complaints & Queries in Wales

The Planning Inspectorate
Room 1-004
Cathays Park
Cardiff CF1 3NQ

Phone: 0292 082 3666
E-mail: Wales@pins.gsi.gov.uk

The Parliamentary & Health Service Ombudsman
Millbank Tower, Millbank
London SW1P 4QP

Helpline: 0345 015 4033
Website: www.ombudsman.org.uk
E-mail: phso.enquiries@ombudsman.org.uk

Please see Wales leaflet for information on how to contact the Wales Public Services Ombudsman.
Challenging the Decision in the High Court

Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet ‘Making Your Enforcement Appeal’] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).
Frequently asked questions

"Who can make a challenge?" - In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land - other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this - see Further Information).

"How much is it likely to cost me?" - An administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees - see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" - This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" - You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" - Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again but for different or expanded reasons.

"What can I do if my challenge fails?" - The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Further information about challenging the decision

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 2LL, telephone 0207 9476555; Website: http://www.justice.gov.uk/about/hmcts/

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Administrative Justice & Tribunals Council

If you have any comments on appeal procedures you can contact the Administrative Justice & Tribunals Council, 81 Chancery Lane, London WC2A 1BQ. Telephone 0207 855 5200; website: http://www.ajtc.gov.uk/ However, it cannot become involved with the merits of individual appeals or change an appeal decision.