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Monday, 1 July 2024

To All Councillors:

As a Member or Substitute of the **Planning Committee**, please treat this as your summons to attend a meeting on **Tuesday, 9 July 2024 at 6.00 pm** in the **Council Chamber, Town Hall, Matlock, DE4 3NN**

Yours sincerely,

Helen Mitchell
Director of Corporate and Customer Services

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

For assistance in understanding or reading this document or specific information about this Agenda or on the “Public Participation” initiative please call the Committee Team on 01629 761133 or email committee@derbyshiredales.gov.uk

AGENDA

SITE VISITS: Attached to the agenda is a list of sites the Committee will visit (**by coach**) on **Monday, 8 July 2024**. A presentation with photographs and diagrams will be available at the meeting for all applications including those visited by the Committee.

1. APOLOGIES FOR ABSENCE

Please advise the Democratic Services Team on 01629 761133 or email committee@derbyshiredales.gov.uk of any apologies for absence.

2. APPROVAL OF MINUTES OF PREVIOUS MEETING (To Follow)

To follow

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. PUBLIC PARTICIPATION

To provide members of the public **who have given prior notice** (by no later than 12 Noon on the working day prior to the meeting) with the opportunity to express views, ask questions or submit petitions relating to planning applications under consideration. Representations will be invited immediately before the relevant item of business/planning application is discussed. Details of the Council's Scheme are reproduced overleaf. To register to speak on-line, please click here [Speak at Planning Committee](#). Alternatively email: committee@derbyshiredales.gov.uk or telephone 01629 761133.

5. 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.

5.1. APPLICATION NO. 24/00061/FUL (Pages 9 - 18)

Construction of 1no. dwellinghouse and associated garage at Land Off Thatchers Croft, Thatchers Lane, Tansley.

5.2. APPLICATION NO. 24/00080/FUL (Pages 19 - 28)

Construction 1no. dwellinghouse at Turners Croft, Thatchers Lane, Tansley, Derbyshire, DE4 5FD.

5.3. APPLICATION NO. 24/00019/FUL (Pages 29 - 38)

Proposed single and two storey extensions at Russets, 2B Wyaston Road, Ashbourne, DE6 1DD.

5.4. APPLICATION NO. 24/00240/FUL (Pages 39 - 56)

Erection of 1no. dwellinghouse with associated works at Land West of Starkholmes Road, Matlock, Derbyshire.

6. APPEALS PROGRESS REPORT (Pages 57 - 106)

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

Members of the Committee: David Burton (Co-Chair), Peter O'Brien (Co-Chair) and Sue Burfoot (Vice-Chair)

David Burton (Co-Chair), Peter O'Brien (Co-Chair), Robert Archer, John Bointon, Bob Butcher, Neil Buttle, Peter Dobbs, Nigel Norman Edwards-Walker, David Hughes, Stuart Lees, Laura Mellstrom, Dermot Murphy, Lucy Peacock and Peter Slack

Nominated Substitute Members:

Substitutes – Councillors Anthony Bates, Geoff Bond, Kelda Boothroyd, Matt Buckler, Sue Bull, Steve Flitter, Marilyn Franks, Gareth Gee, Dawn Greatorex, Joanne Linthwaite, Andy Nash, Simon Ripton, Roger Shelley, Nick Whitehead and Nick Wilton

SITE VISITS

Members are asked to convene outside Reception, at the front entrance of the Town Hall, Matlock at **13:20pm prompt** on **Monday, 8 July 2024**, before leaving (**by coach**) at **13:30pm** to visit the sites as detailed in the included itinerary.

COMMITTEE SITE MEETING PROCEDURE

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

1. A coach carrying Members of the Committee and a Planning Officer will arrive at the site as close as possible to the given time and Members will alight (weather permitting)
2. A representative of the Town/Parish Council and the applicant (or representative can attend.
3. The Chairman will ascertain who is present and address them to explain the purpose of the meeting and sequence of events.
4. The Planning Officer will give the reason for the site visit and point out site features.
5. Those present will be allowed to point out site features.
6. Those present will be allowed to give factual responses to questions from Members on site features.
7. The site meeting will be made with all those attending remaining together as a single group at all times.
8. The Chairman will terminate the meeting and Members will depart.
9. All persons attending are requested to refrain from smoking during site visits.

PUBLIC PARTICIPATION

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

- a) Public Participation will be limited to one hour per meeting, with the discretion to extend exercised by the Committee Chairman (in consultation) in advance of the meeting. On line information points will make that clear in advance of registration to speak.
- b) Anyone wishing to make representations at a meeting must notify the Committee Section before Midday on the working day prior to the relevant meeting. At this time they will be asked to indicate to which item of business their representation relates, whether they are supporting or opposing the proposal and whether they are representing a town or parish council, a local resident or interested party.
- c) Those who indicate that they wish to make representations will be advised of the time that they need to arrive at the meeting venue so that the Committee Clerk can organise the representations and explain the procedure.
- d) Where more than 2 people are making similar representations, the Committee Administrator will seek to minimise duplication, for instance, by establishing if those present are willing to nominate a single spokesperson or otherwise co-operate in the presentation of their representations.
- e) Representations will only be allowed in respect of applications or items which are scheduled for debate at the relevant Committee meeting,
- f) Those making representations will be invited to do so in the following order, after the case officer has introduced any new information received following publication of the agenda and immediately before the relevant item of business is discussed. The following time limits will apply:

Town and Parish Councils	3 minutes
Objectors	3 minutes
Ward Members	5 minutes
Supporters	3 minutes
Agent or Applicant	5 minutes

At the Chairman's discretion, the time limits above may be reduced to keep within the limited one hour per meeting for Public Participation.

- g) After the presentation it will be for the Chairman to decide whether any points need further elaboration or whether any questions which have been raised need to be dealt with by Officers.
- h) The relevant Committee Chairman shall exercise discretion during the meeting to rule out immediately any comments by participants that are not directed to genuine planning considerations.

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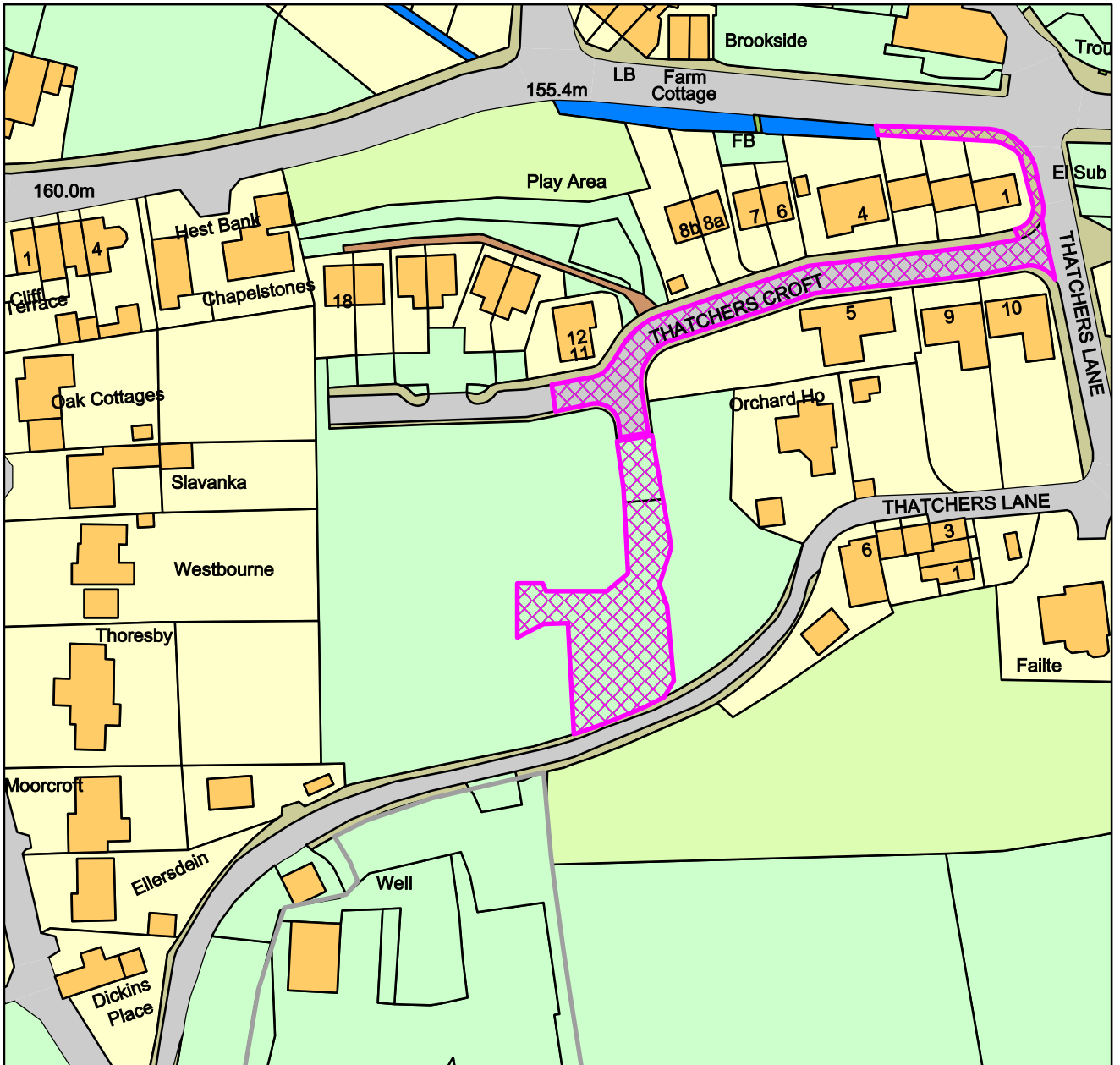
SITE VISITS JULY 2024

LEAVE OFFICE		13:30
24/00019/FUL	Russets, 2B Wyaston Road, Ashbourne, DE6 1DD	14:05
24/00061/FUL	Land Off Thatchers Croft, Thatchers Lane, Tansley	15:05
24/00080/FUL	Turners Croft, Thatchers Lane, Tansley, Derbyshire DE4 5FD	15:20
24/00240/FUL	Land West of Starkholmes Road, Matlock (15 mins)	15:40
RETURN		16:05

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24/00061/FUL

Land Off Thatchers Croft, Thatchers Lane, Tansley



Derbyshire Dales DC

1:1,250

Date: 01/07/2024

100019785

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

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APPLICATION NUMBER		24/00061/FUL	
SITE ADDRESS:		Land Off Thatchers Croft, Thatchers Lane, Tansley	
DESCRIPTION OF DEVELOPMENT		Construction of 1no. dwellinghouse and associated garage	
CASE OFFICER	Mr. G. A. Griffiths	APPLICANT	Mr James Neville
PARISH	Tansley	AGENT	
WARD MEMBERS	Cllr. S. Flitter Cllr. D. Hughes Cllr. J. Linthwaite	DETERMINATION TARGET	27 th March 2024
REASON FOR DETERMINATION BY COMMITTEE	Requested by Ward Member	REASON FOR SITE VISIT (IF APPLICABLE)	To assess the proposed development in its context

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> Principle of the development Impact on the character and appearance of the area Impact on residential amenity Highway safety

RECOMMENDATION
<p><i>Approval subject to conditions and that the application be linked to the S106 legal agreement pertaining to hybrid planning permission 20/00037/FUL.</i></p> <p>UPDATE:</p> <p>Members will recall that this application was deferred at the 9th April Planning Committee for the following reason(s):</p> <ol style="list-style-type: none"> 1. Information from the Highways Authority on the road adoption. 2. Can the garage be omitted from the scheme to allow the landscaping and larger garden area. 3. Clarity provided on S106. <p>The clarification sought is as follows:</p> <ol style="list-style-type: none"> 1. Members attention will be drawn to a plan provided by the County Council in their capacity as the Highway Authority prior to the report being presented by Officers. 2. The principle of removing the garage has been considered but the proposed development (under consideration) creates a larger amenity space than the previous scheme. Therefore, it is not considered appropriate in this instance to require the deletion of the garage. 3. The S.106 Agreement exists, as per the original hybrid application, with subsequent planning application ties into the S.106 through a deed of variation. The numerous sites have all resulted in subsequent deed of variation.

The remainder of the report is unchanged and presented in italics.

1. THE SITE AND SURROUNDINGS

- 1.1 *The site was a field on the southern outskirts of the village of Tansley to the south of the A615, between Thatchers Lane and Alders Lane. The field is currently being developed with dwellinghouses, further to the granting of a hybrid planning permission (ref: 20/00037/FUL) the erection of 5 no. dwellinghouses, which also includes an outline planning permission for the erection of 12 no. dwellinghouses. This current application site forms one of the plots.*
- 1.2 *The housing development, will be primarily accessed off Thatchers Croft, again a relatively recently built residential development, and is situated within the Settlement Framework Boundary for Tansley as identified in the Adopted Derbyshire Dales Local Plan (2017).*



2. DETAILS OF THE APPLICATION

- 2.1 *Full planning permission is sought to provide details of Plot 11, approved under hybrid planning permission (ref: 20/00037/FUL), to address matters of appearance. The reason for this submission is because the dwelling was approved with the reserved matters of the external appearance of the dwellinghouse not having not been submitted. In addition, the proposed dwelling is of a different scale and layout to that approved with the hybrid permission.*
- 2.2 *The dwelling is now proposed to be a three bedroomed dwellinghouse, rather than a five bedroomed dwellinghouse, as detailed in the hybrid planning permission. It is still proposed to retain the approved, roughly L-shape form. The accommodation is proposed to comprise an open plan kitchen/dining room/living room, a bedroom with ensuite, hallway, utility and wc on the ground floor with two bedrooms (one ensuite) and a bathroom on the first floor.*

2.3 *It is proposed to provide for a detached, single garage, with an attached shed, to the west side of the dwellinghouse. The materials of the development are proposed to match those of other dwellings/outbuildings within this specific development.*

3. PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 *Adopted Derbyshire Dales Local Plan (2017)*

- S1 *Sustainable Development Principles*
- S2 *Settlement Hierarchy*
- S3 *Development within Defined Settlement Boundaries*
- S7 *Matlock, Wirksworth, Darley Dale Development Area Strategy*
- S10 *Local Infrastructure Provision and Developer Contributions*
- PD1 *Design and Place Making*
- PD3 *Biodiversity and the Natural Environment*
- PD4 *Green Infrastructure*
- PD5 *Landscape Character*
- PD6 *Trees, Hedgerows and Woodlands*
- PD7 *Climate Change*
- PD8 *Flood Risk Management and Water Quality*
- HC1 *Location of Housing Development*
- HC2 *Housing Land Allocations*
- HC4 *Affordable Housing*
- HC11 *Housing Mix and Type*
- HC14 *Open Space and Outdoor Recreation Facilities*
- HC15 *Community Facilities and Services*
- HC17 *Promoting Sport, Leisure and Recreation*
- HC18 *Provision of Public Transport Facilities*
- HC19 *Accessibility and Transport*
- HC20 *Travel Demand Management*
- HC21 *Car Parking Standards*

3.2 *Derbyshire Dales District Council – Landscape Character and Design Supplementary Planning Document (2018)*

3.3 *Derbyshire Dales District Council – Developer Contributions Supplementary Planning Document (2020).*

3.4 *Derbyshire Dales District Council – Climate Change Supplementary Planning Document (2021).*

3.5 *National Planning Policy Framework*

3.6 *National Planning Practice Guidance*

4. RELEVANT PLANNING HISTORY

20/00037/FUL *Hybrid planning application comprising of a full application for the erection of 5no. dwellinghouses and an outline planning application for the erection of 12no. dwellinghouses with approval being sought for access, layout, scale and landscaping* **Granted**

5. CONSULTATION RESPONSES

Parish Council

- 5.1 - object
- no design/access statement for this application and there are no background papers on the planning portal regarding this application
 - the hedges have been ripped out and are considered to be replaced, but there is little room now for a hedge to be planted
 - the application states that there are no watercourses, but this is within 20 metres of a culvert
 - the site is already covered by an outline planning application but this proposal has changed from a 5 bed property to a 3 bed property, although the ground floor covers a larger footprint than the original
 - the application states that trees will be planted but there is little room for the planting of any trees due to the increase of the footprint, and the siting of huge rocks adjacent to the boundary wall
 - as a Section 106 agreement was to be in place for the original application for this site, is this planning application to be covered by this
 - PC verbally asked DDDC representative to request the application went to Committee.

Local Highway Authority

- 5.2 - request a condition that the development shall not be occupied until the access and parking facilities have been provided as shown on Drawing No. P45.

Trees and Landscape Officer

- 5.3 - no trees at the site
- given that planning permission was granted at the site recently for a similar development, do not have any objections from a trees or a landscape impact point of view.

6. REPRESENTATIONS RECEIVED

- 6.1 None

7. OFFICER APPRAISAL

Principle of Development

- 7.1 The wider site is currently under construction as a development of 17 dwellinghouses. The proposal does not alter the number of dwellings approved; it merely seeks full planning permission for the dwellinghouse instead of submitting a reserved matters application. Having established the general siting of the dwelling and its scale as part of the hybrid planning permission, the matters for assessment are the character and appearance of the proposed dwelling and any impact it may have on amenity by way of their design detail.
- 7.2 The wider residential development is subject to a Section 106 Agreement, for affordable housing provision, open space/play area provision and a financial contribution towards education provision. Whilst the proposal does not increase or reduce the number of dwellings approved, it is nevertheless considered that the dwellinghouse should be similarly subject to the legal agreement, for the avoidance of doubt, and this can be subject to a linking legal agreement.

Impact on the Character and Appearance of the Area

- 7.3 *In terms of character and appearance, the dwellinghouse is proposed to reflect on the materials, scale and form of other dwellings approved in full, some of which are now completed and occupied on the wider site.*
- 7.4 *Concern has been raised by the Parish Council with regard to the application in that trees are proposed to be planted but there is little room for such planting due to the increase of the footprint of the dwellinghouse. The Parish Council also raise concern that hedges have been ripped out and that there is again little room now for a hedge to be replanted.*
- 7.5 *Whilst the concerns above are appreciated, it is not considered fundamental to the quality of the development that a hedge is replanted. The site is bounded by a well-constructed, drystone wall which clearly defines the edge of the development and the proposed dwelling would be set down to the extent that the ground floor area would be unlikely to exceed the height of the wall. Other properties in the in the area also bound directly onto the road without intervening soft landscaping. As such, planting a hedge to seek to soften the view of the development is considered unnecessary, albeit if the applicant were to propose to provide such this would also be deemed acceptable. To this end, it is considered that the character and appearance of the dwellinghouse, and its setting, will be acceptable.*

Impact on residential amenity

- 7.6 *The proposed dwellinghouse is not considered to have an impact on the amenity of other proposed properties around the application site, as assessed with the layout approved under the hybrid application.*

Highway Matters

- 7.7 *The Local Highway Authority has assessed the application and advised of no objection subject to a condition that the development shall not be occupied until the access and parking facilities have been provided as shown on Drawing No. P45.*

Conclusion

- 7.8 *Given the above, it is recommended, subject to a legal agreement linking the plot to the existing Section 106 Agreement and planning permission for the wider site (ref: 20/00037/FUL, that planning permission be granted subject to conditions with respect to the materials of the proposed buildings matching those approved in the discharge of conditions under the hybrid planning application, and currently being used in the construction of the development. It is again considered reasonable to remove permitted development rights, as was the case with the hybrid planning permission, given that uncontrolled alterations may have an impact on the character and appearance of the building. However, it is not considered necessary to attach all the conditions attached to the hybrid planning permission, given that these will need compliance under that permission.*

6. RECOMMENDATION

That authority be delegated to the Development Manager or Principal Planning Officer to grant planning permission subject to the dwelling being linked to the Section 106 Legal Agreement attached to hybrid planning permission 20/00037/FUL and subject to the following conditions:

1. *This planning permission relates to Drawing Nos. P22 and P45, received on 31st January 2024, except insofar as required by other conditions to which this permission is subject.*

Reason: To define the planning permission for the avoidance of doubt and to ensure the satisfactory appearance of the development to comply with policies S1, S3, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

- 2. The facing and roofing materials, doors and windows (to include their materials, colour and depth of recess from the face of the building), all gutters and downpipes and hardstanding, shall match those approved for the development approved under hybrid planning permission 20/00037/FUL.*

Reason: To ensure the satisfactory appearance of the development to comply with policies S1, S3, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

- 3. The development hereby approved shall not be occupied until the access and parking facilities have been provided as shown on Drawing No. P45.*

Reason: To ensure the provision of adequate off road parking in the interests of highway safety to comply with Policy HC21 of the Adopted Derbyshire Dales Local Plan (2017).

- 4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no extensions or alterations shall be carried out to the dwelling, and no outbuildings, sheds or other structures erected within the curtilage, without the prior written approval of the Local Planning Authority upon an application submitted to it.*

Reason: Given the proximity of the dwelling to proposed neighbouring properties and in order to preserve the character and appearance and amenity of the area in accordance with Policies S1, S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

NOTES TO APPLICANT:

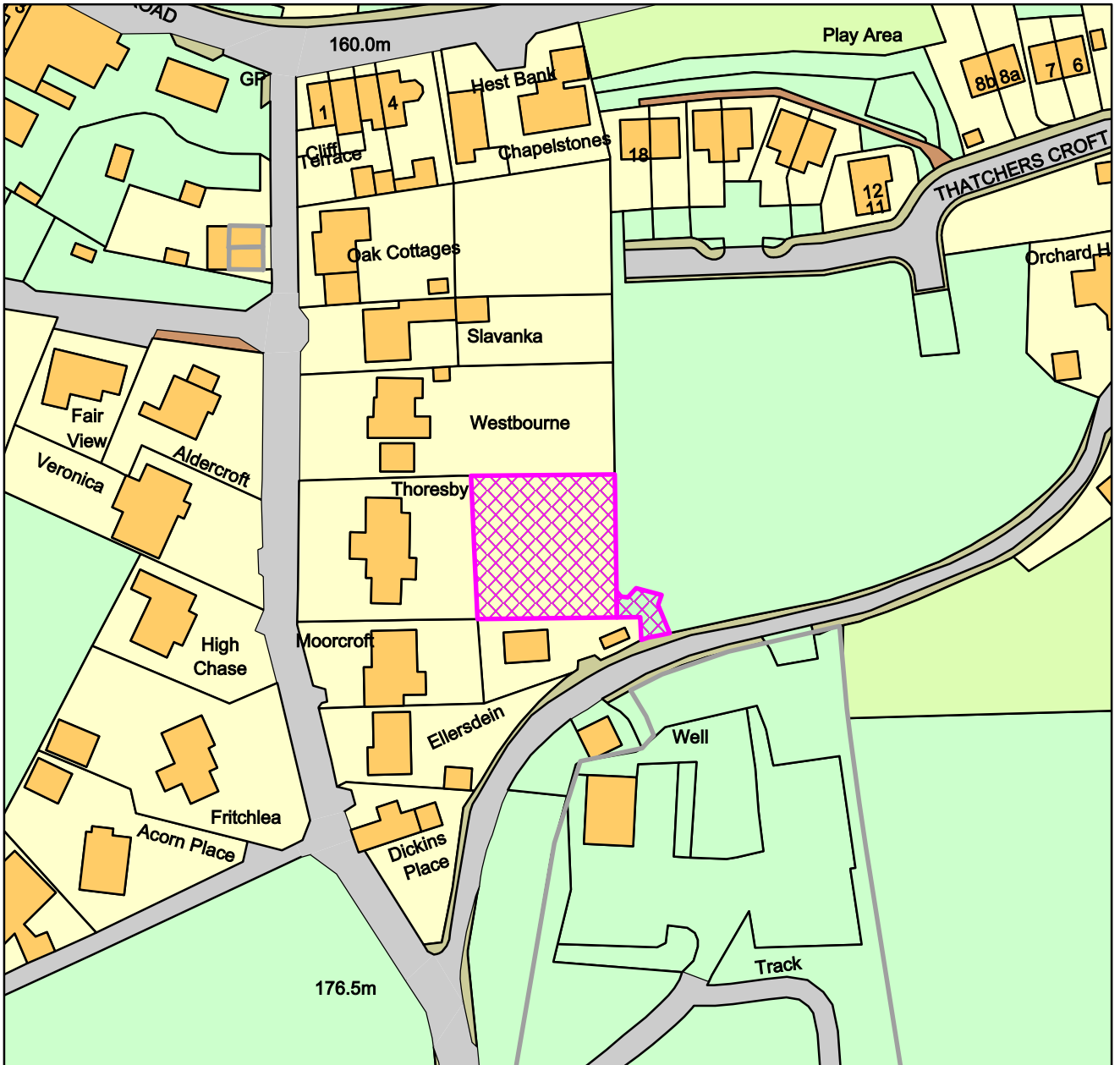
- 1. The Local Planning Authority considered the application as submitted to be acceptable. On this basis, there was no need to engage with the applicant in a positive and proactive manner to resolve any planning problems and permission was granted without negotiation.*
- 2. This decision notice relates to the following documents:*

*Site Location Plan (1:1250) received on 22nd January 2024
Drawing Nos. P22 and P45 received on 31st January 2024.*

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24/00080/FUL

Turners Croft, Thatchers Lane, Tansley



Derbyshire Dales DC

1:1,250

Date: 01/07/2024

100019785

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

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APPLICATION NUMBER		24/00080/FUL	
SITE ADDRESS:		Turners Croft, Thatchers Lane, Tansley, Derbyshire DE4 5FD	
DESCRIPTION OF DEVELOPMENT		Construction 1no. Dwellinghouse	
CASE OFFICER	Aspbury Planning	APPLICANT	James Neville
PARISH/TOWN	Tansley	AGENT	N/A
WARD MEMBER(S)	Cllr Steve Flitter Cllr Joanne Linthwaite Cllr David Hughes	DETERMINATION TARGET	22/03/2024 Extension agreed: 14/06/2024
REASON FOR DETERMINATION BY COMMITTEE	Requested by Ward Member: Cllr Hughes	REASON FOR SITE VISIT (IF APPLICABLE)	For Members to appreciate the site and context.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • Principle of the development • Impact on the character and appearance of the area • Impact on residential amenity • Highway safety

RECOMMENDATION
Approval subject to conditions and that the application be linked to the S106 Legal Agreement pertaining to hybrid planning permission 20/00037/FUL.

1.0 THE SITE AND SURROUNDINGS

- 1.1 The site originally formed part of a field on the southern outskirts of the village of Tansley to the south of the A615, between Thatchers Lane and Alders Lane. The field is currently being developed with dwellinghouses, further to the granting of a hybrid planning permission (ref: 20/00037/FUL) the erection of 5 no. dwellinghouses, which also includes an outline planning permission for the erection of 12 no. dwellinghouses. The current application site forms one of the plots and is located to the south eastern part of the site.
- 1.2 The approved housing development is largely accessed off Thatchers Croft, a relatively recently built residential development, the application plot is accessed via a shared driveway with the adjacent plot to the east, off Thatchers Lane. The site is situated within the Settlement Framework Boundary for Tansley as identified in the Adopted Derbyshire Dales Local Plan (2017).

2.0 DETAILS OF THE APPLICATION

- 2.1 Full planning permission is sought to provide details of Plot 17, Turners Croft, approved under hybrid planning permission (ref: 20/00037/FUL), to address matters of appearance. The reason for this submission is because the dwelling was approved with the reserved matters of the external appearance of the dwelling not having not been submitted. In addition, the proposed dwelling is of a different layout to that approved with the hybrid permission.
- 2.2 The dwelling is proposed to remain as a three bedroomed bungalow, as detailed in the hybrid planning permission. The approved indicative plan shows a roughly L-shaped form to the bungalow with a detached garage. The proposal now put forward is a layout consisting of two sections joined by a central link, with an integral garage. The accommodation is proposed to comprise an open plan kitchen/dining room/living room, with a hallway, linking to the bedrooms with ensuite, study, laundry, utility and bathroom.
- 2.3 The materials of the development are proposed to match those of other dwellings and outbuildings within the overall development. The materials proposed are Walls: Birchover Coursed Gritstone, Roof: Natural Blue Slate, Windows: Agate Grey Aluminium, Doors: Anthracite Grey aluminium.
- 2.4 Boundary treatments proposed comprise retention of the existing beech hedge to the north boundary of the plot, existing timber fence to the east and the existing drystone wall to the south. The proposed east boundary is to be fenced with a post and rail fence and additional beech hedge planting.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1. Adopted Derbyshire Dales Local Plan 2017

S1	Sustainable Development Principles
S2	Settlement Hierarchy
S3	Development within Defined Settlement Boundaries
S7	Matlock, Wirksworth, Darley Dale Development Area Strategy
S10	Local Infrastructure Provision and Developer Contributions
PD1	Design and Place Making
PD3	Biodiversity and the Natural Environment
PD4	Green Infrastructure
PD5	Landscape Character
PD6	Trees, Hedgerows and Woodlands

- PD7 Climate Change
- PD8 Flood Risk Management and Water Quality
- HC1 Location of Housing Development
- HC2 Housing Land Allocations
- HC4 Affordable Housing
- HC11 Housing Mix and Type
- HC14 Open Space and Outdoor Recreation Facilities
- HC15 Community Facilities and Services
- HC17 Promoting Sport, Leisure and Recreation
- HC18 Provision of Public Transport Facilities
- HC19 Accessibility and Transport
- HC20 Travel Demand Management
- HC21 Car Parking Standards

- 3.2. Derbyshire Dales District Council – Landscape Character and Design Supplementary Planning Document (2018)
- 3.3 Derbyshire Dales District Council – Developer Contributions Supplementary Planning Document (2020)
- 3.4 Derbyshire Dales District Council – Climate Change Supplementary Planning Document (2021)
- 3.5 The National Planning Policy Framework (2023)
- 3.6 National Planning Practice Guidance

4.0 RELEVANT PLANNING HISTORY:

- | | |
|----------------|---|
| 20/00037/FUL | Hybrid planning application comprising of a full application for the erection of 5no. dwellinghouses and an outline planning application for the erection of 12no. dwellinghouses with approval being sought for access, layout, scale and landscaping – APPROVED with conditions |
| 20/00037/DCOND | Discharge of Conditions 6, 7, 9, 10, 11, 12, 14, 19, 21, 22, 23, 26, 27, 28, 31, 33, 34, 35, 37 and 42 of application 20/00037/FUL - Hybrid planning application comprising of a full application for the erection of 5no. dwellinghouses and an outline planning application for the erection of 12no. dwellinghouses with approval being sought for access, layout, scale and landscaping – Discharged Conditions in Full |

5.0 CONSULTATION RESPONSES

Tansley Parish Council

5.1 Objects on the following grounds:

- There is not a design/access statement for this application, there are no background papers on the planning portal regarding this application.
- The hedges have been ripped out and are considered to be replaced, but there is little room now for a hedge to be planted.
- The application states that there are no watercourses, but this is within 20 metres of a culvert.
- This site is already covered by an outline planning application, this proposal relocates the dwelling on the plot, and appears to have a larger footprint.

- There are concerns related to sightlines when accessing the proposed property.
- There is no indication of the badger corridor which was on the original plan.

5.2 Highways

The proposal is to provide a new dwelling with access off Thatchers Lane, previously the Highway Authority has raised concerns with regards the suitability to serve any additional dwellings due to its narrow nature with no footways or street lighting.

Whilst I would prefer to see the proposal served from the new access roads off Thatchers Croft, in view that the proposal is for a single dwelling it would be difficult to sustain a highway objection to the proposal. Conditions of approval are recommended.

6.0 REPRESENTATIONS RECEIVED

6.1 2 representations have been received with comments summarised below: -

6.2 **Objection:**

- Concerns related to sight lines when exiting the proposed property.
- DCC Highways did not recommend any additional entry points on this narrow single-track lane which has no pedestrian margin or street lights, however these objections were over ruled by DDDC.
- Flood Risk, the proposal is within 20 mtrs of a watercourse. It is important that new assessments are done to ensure the land drains and the culvert is not damaged or built over.
- The road adjacent to the proposed new entrance to the dwelling floods, and water goes into the site.
- A drainage verification report is required prior to any of the properties on the site being occupied, two properties are occupied, there is no verification report.
- Protected Priority Species
- 6 planning applications (all undecided) for this site on the Planning Portal
- What maintenance plan is in place to maintain the private drainage on the site, these do not appear to be on the Portal, or with these recent plans.
- I have been informed that all conditions related to the original hybrid application relate to the piece meal development taking place on this site.

6.3 **Support**

Further to initial concerns about the impact of development of this site on our outlook the developer has since fully engaged with us in drawing up the plans. Similarly, consulting with us on landscaping and planting such that we are happy to confirm our support for this application which will no doubt improve the use and outlook of the plot.

7.0 OFFICER APPRAISAL

Principle of development

7.1 The wider site is currently under construction as a development of 17 dwellinghouses. The proposal does not alter the number of dwellings approved; it merely seeks full planning permission for the dwellinghouse instead of submitting a reserved matters application. Having established the general siting of the dwelling and its scale as part of the hybrid planning permission, the matters for assessment are the character and appearance of the proposed dwelling and any impact it may have on amenity by way of their design detail.

- 7.2 The wider residential development is subject to a Section 106 Agreement, for affordable housing provision, open space/play area provision and a financial contribution towards education provision. Whilst the proposal does not increase or reduce the number of dwellings approved, it is nevertheless considered that the dwellinghouse should be similarly subject to the legal agreement, for the avoidance of doubt, and this can be subject to a linking legal agreement.

Impact on the Character and Appearance of the Area

- 7.3 In terms of character and appearance, the dwellinghouse is proposed to reflect on the materials, scale and form of the indicative plan submitted for the outline planning application. The scale is maintained at single storey with three bedrooms and the layout has been amended from the indicative plan provided for the approved outline section of the development. The amended plans are considered acceptable in terms of appearance.
- 7.4 Concern has been raised by the Parish Council with regard to the application that hedges have been ripped out and that there is little room now for a hedge to be replanted.
- 7.5 Whilst the concerns above are appreciated, it is not considered fundamental to the quality of the development that a hedge is replanted. The site is bounded by a well-constructed, drystone wall which clearly defines the edge of the development. The beech hedge to the north of the plot is to be retained. In addition to this landscaping details are conditioned within the hybrid approval (no.s 4 and 5). To this end, it is considered that the character and appearance of the dwellinghouse, and its setting, will be acceptable.

Impact on residential amenity

- 7.6 The proposed dwellinghouse is not considered to have an impact on the amenity of other proposed properties around the application site, as assessed with the layout approved under the hybrid application.

Highway Matters

- 7.7 The Local Highway Authority has assessed the application and advised of no objection subject to a condition that the development shall not be occupied until the access and parking facilities have been provided as shown on Drawing No. P49 and that proposed access gates have been set back 5 metres from the adjoining carriageway edge and made to open inwards only.

Drainage matters

- 7.8 Details of condition 13 of planning approval ref: 20/00037/FUL requiring a drainage verification report were approved on 21st June 2023 under discharge of conditions application 20/00037/DCOND. It is therefore considered that flood risk and drainage matters have been satisfactorily addressed.

Protected Species

- 7.9 Conditions 7, 8 and 9 of hybrid approval 20/00037/FUL are in place to address the safeguarding of protected species.

Conclusion

- 7.8 Given the above, it is recommended, subject to a legal agreement linking the plot to the existing Section 106 Agreement and planning permission for the wider site (ref: 20/00037/FUL, that planning permission be granted subject to conditions with respect

to the materials of the proposed buildings matching those approved in the discharge of conditions under the hybrid planning application, and currently being used in the construction of the development. It is again considered reasonable to remove permitted development rights, as was the case with the hybrid planning permission, given that uncontrolled alterations may have an impact on the character and appearance of the building. However, it is not considered necessary to attach all the conditions attached to the hybrid planning permission, given that these will need compliance under that permission.

8.0 RECOMMENDATION

That authority be delegated to the Development Manager or Principal Planning Officer to grant planning permission subject to the dwelling being linked to the Section 106 Legal Agreement attached to hybrid planning permission 20/00037/FUL and subject to the following conditions:

- 1. This planning permission relates to Site Location Plan Drawing no. P47 (1:1250) received on 29th January 2024 Drawing Nos. P23, P24, P49 and P50 received on 29th January 2024, except insofar as required by other conditions to which this permission is subject.

Reason: To define the planning permission for the avoidance of doubt and to ensure the satisfactory appearance of the development to comply with policies S1, S3, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

- 2. The facing and roofing materials, doors and windows (to include their materials, colour and depth of recess from the face of the building), all gutters and downpipes and hardstanding, shall match those approved for the development approved under hybrid planning permission 20/00037/FUL.

Reason: To ensure the satisfactory appearance of the development to comply with policies S1, S3, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017).

- 3. The Development hereby approved shall not be occupied until the proposed access gates have been set back 5 metres from the adjoining carriageway edge and made to open inwards only.

Reason: In the interests of highway safety.

- 4. The development hereby approved shall not be occupied until the access and parking facilities have been provided as shown on Drawing No. P49.

Reason: To ensure the provision of adequate off road parking in the interests of highway safety to comply with Policy HC21 of the Adopted Derbyshire Dales Local Plan (2017).

- 5. Notwithstanding the provisions of the Town and Country Planning General Permitted Development (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no extensions or alterations shall be carried out to the dwelling, and no outbuildings, sheds or other structures erected within the curtilage, without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason: Given the proximity of the dwelling to proposed neighbouring properties and in order to preserve the character and appearance and amenity of the area in accordance with Policies S1, S3 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

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. This decision notice relates to the following documents:

Site Location Plan Drawing no. P47 (1:1250) received on 29th January 2024
Drawing Nos. P23, P24, P49 and P50 received on 29th January 2024.

Highways

1. The Local Highway Authority has no objection to the above subject to the applicant obtaining a section 184 license. The construction of a new access will require the extension of a verge and/or footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Derbyshire Highways details can be found at:

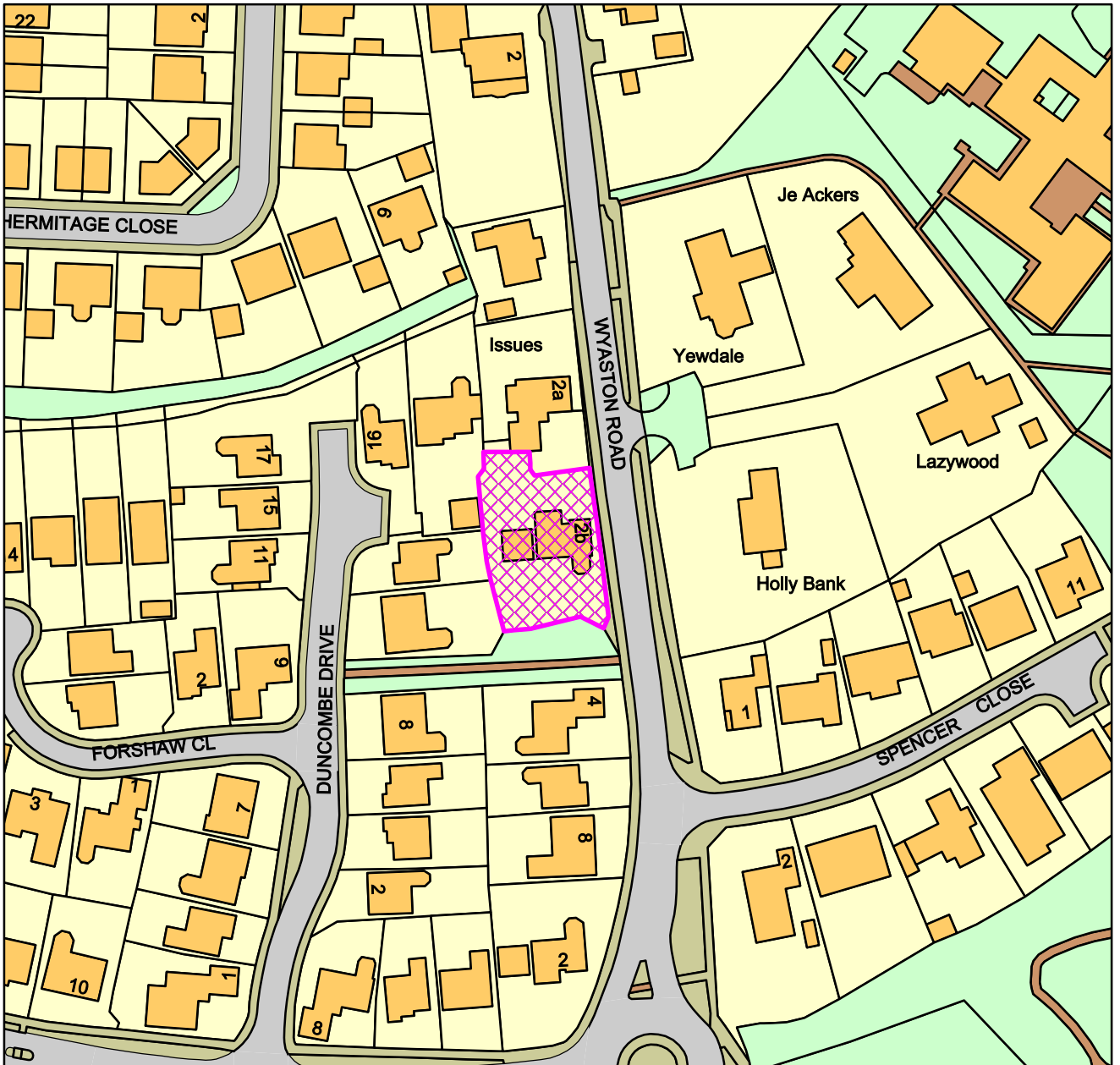
www.derbyshire.gov.uk/transport-roads/roads-traffic/licencesenforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx

or email: highways.hub@derbyshire.gov.uk before commencing any works on the highway.

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24/00019/FUL

Russets, 2B Wyaston Road, Ashbourne



Derbyshire Dales DC

1:1,250

Date: 01/07/2024

100019785

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APPLICATION NUMBER		24/00019/FUL	
SITE ADDRESS:		Russets, 2B Wyaston Road, Ashbourne, DE6 1DD	
DESCRIPTION OF DEVELOPMENT		Proposed single and two storey extensions	
CASE OFFICER	G Huffen	APPLICANT	Mr & Mrs Young
PARISH/TOWN	Ashbourne	AGENT	Making Plans Architecture
WARD MEMBER(S)	Cllr R Archer Cllr A Bates Cllr N Wilton	DETERMINATION TARGET	05.03.2024
REASON FOR DETERMINATION BY COMMITTEE	Called in by Ward Member. Level of local objection.	REASON FOR SITE VISIT (IF APPLICABLE)	To enable Members to appreciate the site and context.

MATERIAL PLANNING ISSUES

- Impact on the Character and Appearance of the Area
- Impact on Neighbour's Amenity
- Impact on Trees

RECOMMENDATION

The proposed development, as amended, is considered on balance to be acceptable in terms of design and scale, and the impact of the development on the residential amenity of neighbouring properties would not be considered significant enough to justify a recommendation of refusal in this case. The application is therefore considered to be in accordance with policies S3, PD1, PD6 and HC10 of the adopted Derbyshire Dales Local Plan and is recommended for approval on this basis subject to planning conditions set out in section 8.0 of the report.

1.0 THE SITE AND SURROUNDINGS

1.1 The application property is a modern detached red brick dwelling with some cladded elements. There is a detached hipped roof garage to the west of the dwelling. The site is accessed from the east from Wyaston Road. The property is located within the southern part of Ashbourne and is located within the Ashbourne Settlement Boundary.



2.0 DETAILS OF THE APPLICATION

2.1 Planning permission is sought for the erection of a two storey side (west) and rear (south) extension, a single storey rear extension to replace the existing conservatory and the removal of the detached garage. The extensions will comprise of a master bedroom with an en-suite and dressing room at first floor level and an extended kitchen/ living/ dining room and craft room at ground floor level. It is proposed to face the extensions with matching brickwork (to the bottom section) and off-white render to the upper and middle sections.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan (2017)

S3 Development within Defined Settlement Boundaries
PD1 Design and Place Making
PD2 Protecting the Historic Environment
PD6 Trees, Hedgerows and Woodlands
HC10 Extensions to Dwellings

3.2 Ashbourne Neighbourhood Plan (2021)

Policy DES1 – Design

3.3 National Planning Policy Framework (2019)

3.4 National Planning Practice Guidance

4.0 RELEVANT PLANNING HISTORY:

T/14/00073/TPO	Works to trees subject to Tree Preservation Order TPO107	PERC	27/08/2014
0195/0004	ERECTION OF TWO HOUSES WITH GARAGES, FORMATION OF VEHICULAR ACCESS AND RE-ALIGNMENT OF WYASTON ROAD	A	16/02/1995

5.0 CONSULTATION RESPONSES

Derbyshire County Council - Highways

5.1 There are no objections to the proposed development from a traffic and highway safety point of view.

Councillor Anthony Bates

5.2 I feel that this application is a massive overdevelopment of the site and is not in keeping with the rest of the Tree's Housing Estate.

1. Over development of the site

2. Impact on neighbouring properties

3. The design is not in keeping with surrounding properties

I would also like to see this application put to the DDDC planning committee.

Councillor Robert Archer

5.3 I would like to request a site visit for Planning Committee members to understand the potential impact of this proposal on neighbouring residential amenity.

Ashbourne Town Council

5.4 Objection – Members feel this is an over-development, does not meet the economic housing needs quoting Local Plan Policies 2.31 and 2.3 and Neighbourhood Plan Policies 5.29, 5.30 and 5.31.

Derbyshire Dales District Council Trees and Landscape Officer

5.5 02/04/2024:

I recommend that the applicant should be required to submit to the Local Planning Authority, before determination of the planning application, an Arboricultural Impact Assessment report to include a Tree Protection Plan. The report should be prepared

according to the guidelines provided by BS 5837:2012 Trees in Relation to Design, Demolition and Construction to Construction – Recommendations.

I recommend that in the absence of an Arboricultural Impact Assessment and Tree Protection Plan to demonstrate otherwise, it appears that the proposals may be harmful to an established roadside tree that contributes to the character and appearance of the local landscape.

22/05/2024:

The submitted Arboricultural Impact Assessment identified that some insignificant on-site trees would need to be removed to facilitate the proposals. Also, unfortunately the most notable tree on the site – T1 a mature sycamore - should be removed regardless of the proposed development. This is for safety reasons due to colonisation by a virulent wood decay fungus resulting in increased likelihood of tree failure and unacceptable level of risk of personal harm or property damage.

The report includes appropriate recommendations for temporary tree protection measures for the retained trees and hedgerows to be used during development works. If planning consent were to be granted that I suggest that all recommendations and guidance made in the report should be required to be followed.

I suggest that tree removals to facilitate the proposed development could be replaced through planting of fruit trees in the grounds of the property.

6.0 REPRESENTATIONS RECEIVED

6.1 16 Letters of representation have been received from neighbouring residents in respect of the proposals. A summary of the concerns pertaining to material planning considerations are detailed below:

- The scale of the development
- Loss of light
- Overshadowing/ overbearing presence near common boundary
- Highway safety concerns
- Insufficient parking space
- Development not in keeping with its surroundings
- Height of the development
- Surface water drainage issues
- Contrary to Local Plan Policies.

Further comments submitted following the receipt of amended plans include:

- Impact of the two-storey extension – Overbearing, loss of light and loss of privacy
- Impact on biodiversity.

7.0 OFFICER APPRAISAL

Principle

- 7.1 The site is located within the Ashbourne Settlement Boundary where policies permit extensions and alterations to existing dwellings provided that they are in-keeping with the character and appearance of the host dwelling and conserve the significance of the Conservation Area in accordance with policies PD1 and S3. Regard should also be given to Policy HC10 (Extensions to Dwellings) which requires extensions/ enlargements to have a height, scale, form and design that is in keeping with the scale and character of the original dwelling and the site's wider setting and location.

Impact on the character and appearance of the building and the wider area

- 7.2 Policy PD1 requires all development to be of a high quality that respects the character, identity and context of the townscape and that contributes positively to an area's character in terms of scale, height, density, layout, appearance, materials and relationship to adjacent buildings. Policy HC10 supports extensions to residential properties provided that the plot size is large enough to accommodate the extension without resulting in an overdeveloped site and that the scale, height, form and design of the extension is in keeping with the scale and character of the original dwelling and the site's wider setting and location.
- 7.3 It is proposed to extend the dwelling through the erection of a two-storey (west) side and rear extension and a separate single storey rear extension. This is an amended proposal following concerns being raised with the original scheme. The original scheme proposed extensions to the dwelling in the form of a two storey (west) side extension which also projected forward of the front elevation and adjoined a repositioned replacement garage and a single storey front extension. Following ongoing discussions with the agent, the current revised scheme was submitted, re-configuring the extensions, removing the garage element and reducing the mass of the extensions towards the north and west boundaries of the site.
- 7.4 The two-storey extension is to have hipped roofs, corresponding to the original dwelling. With both the side section and rear sections of the extension having ridge heights lower than the original dwelling (approx. 300mm). The side extension has also been set back between 400mm and 1metre from the front of the original dwelling helping it to appear more subservient.
- 7.5 In terms of materials, it is proposed to face the extensions with matching brick and off-white render, with the extensions predominantly being rendered. It is noted that the surrounding properties are mainly faced with brick, however there are examples of partially render properties within the locality. It is therefore not considered that the use of render would appear alien or appear out of context in this instance.
- 7.6 It is considered that the revised proposals are of a scale and presence that they would not appear out of context or overwhelming to the host dwelling or to be considered harmful to the character and appearance of the wider street scene.

Impact on the amenity of neighbouring properties

- 7.6 The property sits to the western side of Wyaston Road and faces a property (2A Wyaston Road) which is of a similar appearance and layout. There are 3 detached properties to its western boundary 10, 12 and 14 Duncombe Drive. With 12 Duncombe Drive being in the closest proximity to the application property and proposed development. To the south of the site there is a grassed area of land with a footpath leading from Wyaston Road to Duncombe Drive affectively separating the application site from 4 Wyaston Road to the south.

- 7.7 The two-storey extension is to have hipped roofs, corresponding to the original dwelling. With both the side section and rear sections of the extension having ridge heights lower than the original dwelling (approx. 300mm). Due to the positioning of the extension its closest common boundary is with 12 Duncombe Drive to the west. The side extension will sit approx. 4.6m from this boundary. Limited windows and doors have been included within the west facing elevation with a door and window at ground floor level and a roof light. Given the positioning of these elements it is not considered that the extension will result in any significant loss of privacy to the occupiers of 12 Duncombe Drive.
- 7.8 As the side/ rear extension is two storey it is acknowledged that the development will result of overshadowing/ loss of light to the rear part of the rear garden of 12 Duncombe Drive. However due to the distance between the property boundary and the proposed development, it is not considered, on balance, that the development would result in a loss of light to the wider garden area of 12 Duncombe Drive and therefore would not be considered significant enough to justify a recommendation of refusal in this case.

Impact on trees

- 7.9 It is noted that there are number of trees on and adjacent to the application site. A number of these trees are also subject to a Tree Preservation Order (DDDC TPO 107). During the consideration of the application an Arboriculture Impact Assessment was submitted which identified that some less significant on-site trees were to be removed to facilitate the proposals. It also noted that a mature Sycamore tree should also be removed, regardless of the proposals, for safety reasons.
- 7.10 The Assessment also includes a number of recommendations for temporary tree protection measures for the retained trees and hedgerows to be used during development works. it is concluded that the proposal, subject to the recommendations and guidance set out in the report is in accordance with Policy PD6 of the Local Plan (2017).

Conclusion

- 7.11 The proposed development, as amended, is considered on balance to be acceptable in terms of design and scale, and the impact of the development on the residential amenity of neighbouring properties would not be considered significant enough to justify a recommendation of refusal in this case. The application is therefore considered to be in accordance with policies S3, PD1, PD6 and HC10 of the adopted Derbyshire Dales Local Plan and is recommended for approval on this basis.

8.0 RECOMMENDATION

That planning permission be permitted subject to the following conditions:

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

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

2. The development hereby approved shall not be carried out other than in accordance with the following approved plans, except insofar as may otherwise be required by other conditions to which this planning permission is subject:

01 - Site Location Plan, Drawing No. J3703-01 (received 09.01.2024)

02 - Existing and Proposed Site Layout Plans, Drawing No. J3703-01 Rev. C
(received 21.03.2024)

03 - Proposed Ground Floor Plan, Drawing No. J3703-05 Rev. B
(received 21.03.2024)

04 - Proposed Ground Floor Plan and Elevations, Drawing No. J3703-06 Rev. B
(received 21.03.2024)

Reason: For the avoidance of doubt and to ensure the satisfactory external appearance of the development.

3. Prior to any site clearance, groundworks, excavations, demolition or construction works and before any materials or plant are brought onto the site for the purpose of the development, temporary tree protection fencing shall be erected on site in accordance with the recommendations and Tree Protection Plan set out in the submitted Arboricultural Impact Assessment (dated 01.05.2024 and prepared by Apex Environmental Ltd). The fencing must remain throughout the period of construction and no materials or equipment shall be stored, no rubbish dumped, no fires lit or any excavations or changes in land level made within the fenced area.

Reason: To protect trees during the development phase in the interests of the safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits, human health and social benefits and climate minimisation in accordance with Policy PD6 of the Adopted Derbyshire Dales Local Plan (2017).

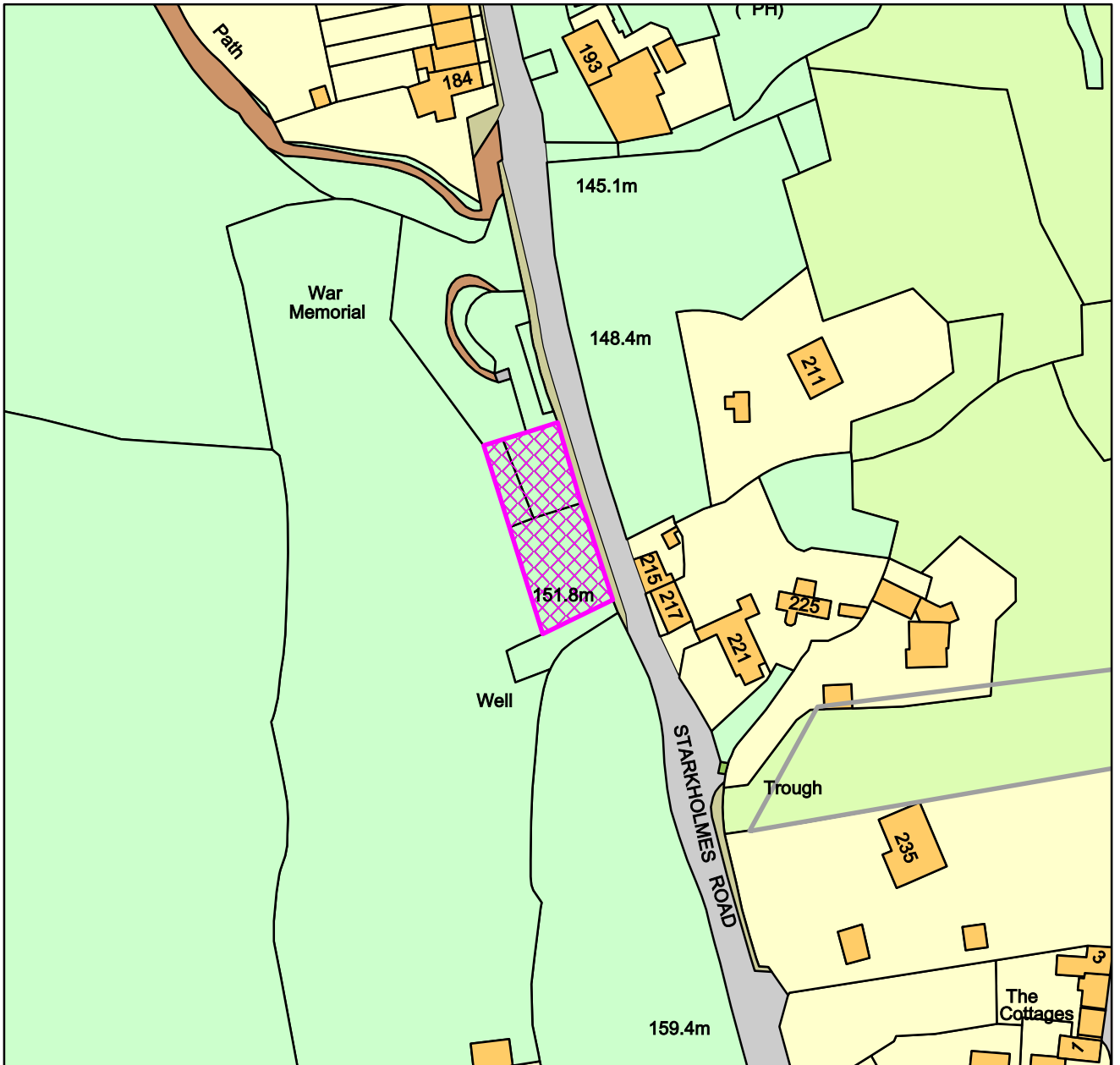
9.0 NOTES TO APPLICANT:

1. The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant's agent which resulted in the submission of a revised scheme taking into the concerns with the scale, massing and appearance of the original scheme.

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24/00240/FUL

Land West of Starkholmes Road, Matlock



Derbyshire Dales DC

1:1,250

Date: 01/07/2024

100019785

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

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Planning Committee 2023

APPLICATION NUMBER		24/00240/FUL	
SITE ADDRESS:		Land West Of Starkholmes Road Matlock Derbyshire	
DESCRIPTION OF DEVELOPMENT		Erection of 1no. dwellinghouse with associated works	
CASE OFFICER	Chelsea Johnston	APPLICANT	Diocese of Derby
PARISH/TOWN	Matlock Town	AGENT	Caroline McIntyre, Spring Planning Ltd
WARD MEMBER(S)	Cllr Steve Flitter Cllr Joanne Linthwaite Cllr David Hughes	DETERMINATION TARGET	12/07/2024
REASON FOR DETERMINATION BY COMMITTEE	Number of objections received exceeds Delegated threshold.	REASON FOR SITE VISIT (IF APPLICABLE)	For Members to appreciate the site and context.

MATERIAL PLANNING ISSUES
<ul style="list-style-type: none"> • Whether the development is acceptable in principle • Visual and landscape impact of the development, particularly in relation to the Derwent Valley Mills World Heritage Site and Matlock Bath Conservation Area • Impact on the character and appearance of the local area • Impact upon amenity • Impact upon highway safety • Impact upon trees and biodiversity

RECOMMENDATION
That the application be refused for the reasons set out in the report.

1. THE SITE AND SURROUNDINGS

- 1.1 The site is located along the western side of Starkholmes Road, opposite no. 215 Starkholmes Road, and is located outside the defined settlement boundary.
- 1.2 Starkholmes is a small residential settlement that extends north from the site along the steep hillside and is situated between Matlock (circa. 1km north) and Cromford (circa 2km southwest).
- 1.3 The site itself is rectangular in form, measuring approx. 0.06ha, and encapsulates the boundary of the former Starkholmes School which was demolished circa. 1965. The site now consists of several trees and overgrown vegetation with little remnants of tarmac of the old school yard to the northern section of the site. The original stone boundary walls, gates, railings and pedestrian access remain onsite.
- 1.4 The eastern boundary runs parallel with Starkholmes Road, with the western and southern boundary bound by pasture fields experiencing views over Matlock Bath and the Derwent Valley. The war memorial adjoins the northern boundary.
- 1.5 The site falls within the World Heritage buffer zone of the Derwent Valley Mills and is close to two Conservation Areas. The site lies to the south of the old Matlock Conservation Area, and the west boundary borders the Matlock Bath Conservation Area.
- 1.6 In terms of the surrounding landscape, the site is within the White Peak 'Limestone Slopes' landscape character area, which comprises small, nucleated limestone villages and dispersed farmsteads nestling within moderate to steeply sloping limestone slopes. Distinctive dry-stone walls enclose former open fields and semi-regular fields with a pastoral land-use.



[Photo 1: Existing pedestrian metal gate, railings and boundary wall along eastern boundary]



[Photo 2: Looking west from within the site across the valley towards Matlock Bath.]



[Photo 3: Looking east from within the site toward 215 Starkholmes Road]



[Photo 4: Looking north towards site from Starkholmes Road]

2. DETAILS OF THE APPLICATION

- 2.1 Full planning permission is sought for the erection of a dwelling, in the southern portion of the plot along with associated vehicular access, landscaping and all associated site works.
- 2.2 The proposed dwelling consists of two floors, a ground floor entered from street level and a lower ground floor set within the landscape, incorporating a split-level design. The ground floor comprises a kitchen and living room area and study. The lower ground floor comprises 4 bedrooms and associated bathrooms.
- 2.3 Two main accommodation blocks are proposed linked by glazed central section with a single pitch roof. The house would be constructed in a combination of stone and timber cladding finishes with an extensive green roof.
- 2.4 A new vehicular access is proposed off Starkholmes Road which requires a small section the stone wall to be removed. It is also proposed to reduce the height of the stonewall the entire length to 600mm in order to accommodate the required visibility splays. 3x parking spaces are proposed north of the dwelling.
- 2.5 New tree and shrub planting is proposed on the eastern, southern and western site boundaries.
- 2.6 The planning application is accompanied by the following information:
 - A suite of existing and proposed plans – James Boon Architects
 - Design and Access Statement – James Boon Architects
 - Climate Checklist – James Boon Architects
 - Landscape and Visual Appraisal – Weddles
 - Landscape Masterplan – 1475 – 008
 - Tree Survey – Weddles
 - Tree Protection Plan – 1475 – 006
 - Tree Constraints Plan – 1475 -006
 - Biodiversity Impact Assessment (including Biodiversity Metric 4.0) – Weddles
 - Preliminary Ecological Appraisal- Weddles
- 2.7 An amended proposed site plan (ref: 2014 08 11 Rev A) and amended proposed elevation 6 & 7 (ref: 2014 08 15 Rev A) was received by the LPA on 09.06.24 to address concerns raised by DDDC Tree and Landscape Officer and the Local Highway Authority.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan 2017

S1 Sustainable Development Principles
S2 Settlement Hierarchy
S4 Development within the Countryside
PD1 Design and Place Making
PD2 Protecting the Historic Environment
PD3 Biodiversity and the Natural Environment
PD4 Green Infrastructure
PD5 Landscape Character
PD6 Trees, Hedgerows and Woodlands
PD7 Climate Change
HC19 Accessibility and Transport
HC21 Car Parking Standards
PD9 Pollution Control and Unstable Land

3.2 The National Planning Policy Framework

3.3 National Planning Practice Guide

4.0 RELEVANT PLANNING HISTORY:

None

5.0 CONSULTATION RESPONSES

Town Council

5.1 No objection to the proposed development

Local Highway Authority

5.2 Based on the proposed vehicle access arrangements and site layout drivers' visibility is restricted in both directions due to the high boundary wall that flanks the proposed new access on both sides of the site, particularly in the critical direction to the south where inter-visibility with oncoming northbound traffic is crucial.

Even though visibility splays are shown on the layout drawing they are incorrectly drawn on the plan and I would strongly recommend that the wall fronting the site is reduced in height to no higher than 600mm for its whole length relative to the adjacent highway/carriageway. Any shrub/tree planting adjacent the reduced height wall must be avoided and outside the visibility envelope.

In addition to the above the proposed layout drawing only shows 2no. car parking spaces and given the scheme proposal is for a 4-bedroom dwelling, it is necessary to cater for 3no. car parking spaces to accord with parking policy.

Following the submission of amended plans the Local Highway Authority have confirmed they have no objection to the proposed development.

DDDC Trees and Landscape Officer.

5.3 In terms of potential impact to significant trees the updated proposals appear to be less harmful than previous proposed site layout because development has been largely excluded from their root protection areas (I am assuming the dashed blue lines on Site Plan as Proposed the represent the trees root protection areas). However I do not have any details regarding potential ground level changes or underground services installations within the root protection areas which would be important and could be harmful to the trees.

Derbyshire Wildlife Trust

5.4 We have reviewed the Preliminary Ecological Appraisal (Weddles, February 2024) and the Biodiversity Impact Assessment (Weddles, February 2024). Sufficient information has been submitted regarding protected species, however the trading rules are not satisfied in the submitted BNG metric and therefore a true net gain cannot be claimed. See below for full comments.

Habitats and Species

5.5 There is some limited potential for amphibians and reptiles to use onsite habitats. Hedgehogs and badger could also utilise the site. The main constraint is considered to be

nesting birds in the existing scrub and trees. Precautionary methods of working could be secured via a condition for a Construction Environmental Management Plan (CEMP: Biodiversity), should permission be granted, to safeguard herptiles, badgers, breeding birds and other terrestrial mammals. Conditions to secure sensitive lighting and species enhancements should also be attached.

- 5.6 We advise that the recommendations for species enhancements in Section 6.1 are amended to swap out the sparrow terrace for more integral nest bricks, as these have a higher rate of uptake by a range of bird species. We also advise that only house martin nest cups are suitable for external walls (not swallow) and should only be installed if beneath an overhang/eaves. If such features are not present, alternative bird boxes should be chosen.

BNG

- 5.7 The application was received on 20th March 2024, prior to mandatory 10 % net gain for small sites (2nd April 2024). Nevertheless, a BNG assessment has been completed, which predicts a 45.74% net gain in habitat units.
- 5.8 We note that the trading rules are not satisfied due to the loss of medium distinctiveness habitats. A copy of the Excel metric has not been submitted and therefore we cannot see the exact details of the trading rules. A copy should be submitted for review.
- 5.9 We acknowledge that the proposed design incorporates native landscaping, including native scrub, trees, hedge and grassland, plus a green roof. We do query the appropriateness of the proposed calcareous grassland at the site and request justification of this element. Existing grassland was classed as 'other neutral' so it is unclear if calcareous will establish well or if there will be specialist treatment of substrate as part of the build.
- 5.10 Once the BNG elements have been agreed, we would be happy to suggest planning condition wording. It is hoped that the information provided is helpful to the Council. If you require any further information or wish to discuss any of the comments made, please do not hesitate to contact me.

Environmental Health

- 5.11 I have no objections to this application in principle. However, I would like to see plans for the foul waste once decided. I would also recommend that standard hours of operation are applied as a condition to this application as it is in close proximity to existing dwellings:

Restriction of hours of operation

No machinery or plant shall be operated, no process shall be carried out and no deliveries taken at, received, or dispatched from the site except between the hours 08.00 - 18.00 Monday to Friday, 08.00 - 13.00 on Saturday and at no time on Sundays, Bank or Public Holidays. in order to protect the amenity of the locality, especially for people living and/or working nearby.

Development Control Archaeologist

- 5.12 Thank you for consulting on this application. The proposed development area overlies the site of the former Starkholmes school recorded on the Derbyshire HER (MDR14888). The site also lies on the edge of the Matlock bath conservation area and also at the edge of the buffer zone of the World Heritage Site. I have no archaeological objections but you should consult your own Buildings and Conservation Officer.

Derwent Valley Mills World Heritage Site

- 5.13 The DVMWHS Coordination Team won't be sending in a response relating to this application. There do look to be issues with this application but these relate to impacts on the Conservation Area, so fall outside our remit.

DDDC Conservation Officer

Heritage assets:

- 5.14 The redline of the application site lies partly within the buffer zone of the Derwent Valley Mills World Heritage Site. The NPPF notes World Heritage Sites are 'assets of the highest significance'.
- 5.15 A buffer zone is an area surrounding the World Heritage Site that gives an added layer of protection to the Site. The buffer zone includes the immediate setting of the World Heritage Site, important views and other areas or attributes that are functionally important as a support to the Site and its protection.
- 5.16 The application site also lies to the immediate north-east of the boundary of the Matlock Bath Conservation Area, essentially within the setting of this Area.
- 5.17 Starkholmes Meadows is identified as a character zone (5) in the Matlock Bath Conservation Area Appraisal. The Appraisal states:

'In terms of its topography it lies in stark contrast to the drama that characterises the rest of the landscape. It comprises open, undulating pasture with dry-stone field boundary walls and occasional individual and groups of trees. It was originally included within the Conservation Area because of the open views that could be gained to it from other areas within and above Matlock Bath to the west and the fact that it provides genuine relief from the overwhelming sense of enclosure experienced within the rest of the valley.' (2006, p.51)

Observations:

For the reasons outlined above, this is an extremely sensitive site.

Having reviewed the proposed development, I object on the basis of its form and materials, none of which is sympathetic to the historic sensitivities and context of the site. The proposal will result in less than substantial harm to the heritage assets details above.

Conclusion:

I object to this planning application.

6.0 REPRESENTATIONS RECEIVED

- 6.1 Thirteen letters of representation have been received to date and are summarised below.

Principle of Development

- The application site is outside the defined settlement boundary in the Council's 2017 Local Plan.
- The land to the north is the relatively attractive public open space of the memorial garden, and the site is 60m from the nearest dwelling on the west side of Starkholmes Road. Therefore, the proposed dwelling will be a substantial and sporadic intrusion into the countryside setting of the village.

- It will set a precedent for building on the west side of the road and spoiling the views across the valley in what is a conservation area.
- The application site is excluded from the NPPF definition of previously developed land as the remains of the permanent structure or fixed surface structure have blended into the landscape. The site has been overtaken by nature and as pointed out by the Planning Officer is now part of the open countryside.
- The applicant attempts to argue that the site should be treated as an exception because it asserts that Derbyshire Dales cannot meet its 5 year housing land supply. This is exceedingly 'thin' justification as this application will have a totally insignificant impact on land supply. Certainly not enough impact to justify a departure from the local plan policy. [this argument might be taken slightly more seriously if two affordable cottages had been proposed.].

Impact on Heritage / Designated Assets

- The outstanding public views over Matlock Bath and the Derwent Valley to the southwest and west will be adversely affected, particularly from the highway at the southern end of the eastern boundary wall.
- Perhaps most distressing is the effect the building will have on the war memorial and cast a shadow over the area at certain times of day. It deserves a more respectful use of the land as it neighbours onto it.
- This building would be right next to the War Memorial, a situation which was never envisaged by the village, I am sure, when the war memorial was located here. This area is for quiet contemplation and enjoyment of the view.
- The splendid views down towards Matlock Bath and the Derwent Valley would be very adversely affected. These views are valued by Starkholmes residents and visitors.
- The application site lies on the boundary of the Special Landscape Area and of the Matlock Bath Conservation Area. The called 'Starkholmes Meadows' in the Matlock Bath Conservation Area appraisal were included because of 'the open views that could be gained to it from other areas within and above Matlock Bath to the west, and the fact that it provides genuine relief from the overwhelming sense of enclosure'.
- If approved, the precedent for roadside ribbon development on the west side of Starkholmes Road, south of the War Memorial, would be to begin to erode this important view from Matlock Bath. In addition this modern domestic dwelling would be an incongruous intrusion in the view and the overall appearance of the Starkholmes hamlet, as viewed from across the valley.

Design and Materials

- The attractive traditional form of surrounding development is predominantly based on horizontal and vertical lines of construction, whereas the proposed overtly modernist design of the dwelling will be additionally obtrusive in the landscape due to its angular and discordant shape. The substantial proposed use of timber cladding is also an untraditional building material for the locality.
- The style of the house is not in keeping with other local buildings, and is not appropriate for a conservation area. Despite its 'green' credentials (wood structure), the building does not sit well in the landscape and appears to be inappropriately tall, unlike the rest of the village. It would set a very ugly precedent.
- Striking, well designed, new development can have a proper place in good urban design. The architects have made good efforts in producing, a commendable and ingenious design. However individual designs rarely stand alone, they have a context and should be designed within their surrounding visual context. [urban form, morphology and materials etc]. My concern is that in their efforts to produce an outstanding design have over-designed what should be a very simple and reserved piece of architecture perhaps in an effort to overcome the policy objections. It is perfectly possible to design a good

modern house using traditional forms and materials rather than ignoring them as is the case with the proposed design.

- The immediate and pre-dominant and consistent character around the site is demonstrated by humble domestic buildings; cottages built in stone masonry with areas of wall dominating areas of windows; domestic constructions with short roof spans; ridge lines parallel to contours [rather than at right angles to the slope]. The proposal with the ridge line at right angles to the slope presents a very strong gable feature [elevation 5], with the ridges running at right angles to the contours. In my opinion this would present an over-dominant and imposing gable in this sensitive landscape, especially when viewed from both near and across the Bath Fields/WHS.
- The upper floor materials are problematical. Every single building in the close vicinity is made of natural stone with pierced openings. The proposed wooden cladding to the upper level introduces an alien and incongruous material for no good reason. This would have a detrimental impact on the consistent urban form in the immediate locality.
- This application in no way complies with Local Plan policies re design, which requires new development to be in keeping with the surrounding area. It is true that within Starkholmes limited new build has been accommodated of modern and attractive design, but these were plots within the existing built up area which still incorporated local materials and used the hillside contours to ameliorate their impact. This application has none of these features; in this prominent and isolated position its angular design and inappropriate materials would be a discordant feature in the landscape and setting of the hamlet.

Highways and Pedestrian Safety

- The vision splays dictate the removal of an approximately 15m length of the stone wall fronting the highway.
- Building a house here will reduce the already very limited parking space along Starkholmes Road. At the moment, vehicles are usually parked up the hill and at the bus stop for Matlock opposite the White Lion. People waiting for a bus have to stand right out into the road so that the bus driver will see them, so already the parking situation is not safe or satisfactory, especially as many cars go too fast for the conditions.
- The layout will also greatly reduce on street parking for Starkholmes residence. There are many houses without parking that rely on this wider segment of road to park on. Reducing it will force residents to park nearer the white lion where there have been several incidents in the past and the road is narrower.
- The parking is diabolical as it is, causing daily issues & road rage. We foresee a 4 bed property being built there would only add to this major problem! Access to this property will take away residents parking spaces & cause more chaos.
- I would like to object to this application on the grounds of safety to the local community. As a resident of starkholmes road who uses the footpath daily, this application would increase the danger to pedestrians.
- The road is already dangerous, due to the quantity of traffic and the speed it travels. It is a local rat run, and has 2 schools on it. There have been a number of cars written off, exactly where the proposed site is. The foot path will be compromised by access to a driveway, and the car parking situation along this piece of road will worsen, due to a dropped kerb. All of these factors will make the road even more dangerous for those of us who walk.
- the vehicular access requirement for a new house at the proposed location would reduce the already limited length of road available for car parking for existing residents of adjacent cottages who have no other safe parking space available.

Ground Instability

- This is the site of the former Starkholmes School and MCA has received information to the effect that the school had to be demolished due to ground instability. This raises the

question of whether it is appropriate to undertake extensive ground works on this site in a location close to a public highway risking the collapse of a road.

- New building here could affect the stability of Starkholmes Road, which has been a problem for a long time. Closure of Starkholmes Road because of landslip will further add to congestion on the A6.
- As a geologist with over 53 years professional experience, my opinion is that the site is unsuitable for building a new residential property. I have not done a detailed study of the site, but I am astonished that it has not been considered necessary to do so in the context of this planning application. This part of Starkholmes is underlain by a soft shale that overlies the limestone of High Tor and Matlock Bath, and the shale itself is covered by varying depths of relatively unconsolidated periglacial deposits. The likely instability of the site must be a primary consideration.
- The site is within an active landslip area as indicated on the British Geological Survey geological map. Slow movement ('creep') on this landslip has increased in recent years, resulting in imminent compulsory demolition of the nearest neighbouring house on the west side of Starkholmes Road, as well as frequent breaks in electrical cables and other services below Starkholmes Road in the vicinity, and an increase in structural cracks affecting several nearby houses, mostly on the west side of Starkholmes Road, as well as being a probable contributory factor in collapse of the southern boundary wall of my own property in 2017. Addition of any significant load on the proposed site, such as construction of a new house, whether underpinned or not, is likely to accelerate the slippage. This could well impact the stability of the road itself, which has been subject to subsidence at different locations, between the Riber Road junction and the Woodseats Farm entrance.

Impact on Trees

- The substantial loss of trees required to enable the development.
- The proposed development could affect the roots of at least one of the beech trees there. These are beautiful mature trees and are a great asset to the village, especially as the row of attractive chestnut trees that were opposite have been pollarded in a very ugly way by a property developer. We need to protect and value trees in a time of global heating.

Alternative Use

- There has been an alternative suggestion that this land should be used as a community asset (a garden or childrens' playground), especially as we have lost the allotments. At the moment this land is a fairly attractive little wooded area. This could be an idea that the owners, the Church, might want to consider.
- It is a shame that the Church should seek to profit from this site to the detriment of the village. It is hoped that a more community based solution could be found for this site.

7.0 OFFICER APPRAISAL

Principle of Development

- 7.1 The development site is situated in a highly sensitive location.
- 7.2 The site and the area to the west is included within the Derwent Valley Mills World Heritage Site (DVMWHS) Buffer Zone. The buffer zone includes the immediate setting of the World Heritage Site. This means important views and other areas or attributes that are functionally important as a support to the Site and its protection.
- 7.3 The application site is visible as rising upland which forms part of the setting of the World Heritage Site and is appreciated from the nearby footpath along Starkholmes Road.

- 7.4 The application site also lies to the immediate north-east of the boundary of the Matlock Bath Conservation Area, essentially within the setting of this Area.
- 7.5 As set out by the Matlock Bath Conservation Area Appraisal the site is identified as Starkholmes Meadows character zone (5) which states *“It was originally included within the Conservation Area because of the open views that could be gained to it from other areas within and above Matlock Bath to the west and the fact that it provides genuine relief from the overwhelming sense of enclosure experienced within the rest of the valley”*.
- 7.6 Public views over Matlock Bath and the Derwent Valley, both designated heritage assets, to the southwest and west will be adversely affected, particularly from the highway at the southern end of the eastern boundary wall.

The Planning Balance

- 7.7 The Council is unable to demonstrate a 5-year housing land supply at this time. In these circumstances, Paragraph 11 of the NPPF states that the Local Planning Authority should grant planning permission for sustainable development unless:
- i. the application of policies in the NPPF that protect areas or assets of particular importance (including designated heritage assets) provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 7.8 The development would result in a significant visual change to the site and the development would project out into the designated countryside which make a positive contribution to the Derwent Valley Mills World Heritage Site and Matlock Bath Conservation Area.
- 7.9 The agent states that the site is previously developed land as it is the site of the former school. However, given the appearance of the site and the passage of time that has passed since the school was demolished we are consider the land has reverted to a greenfield and can no longer be deemed a brownfield site.
- 7.10 It is acknowledged that the Council are unable to demonstrate the supply of housing sites as required by the Framework with paragraph 11 engaged which states that there is a presumption in favour of sustainable development unless, amongst other things, the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
- 7.11 It is acknowledged that the design concept indicates that the proposed dwelling would achieve a high level of energy performance and incorporate a range of sustainability measures. Whilst mindful of the above, given the small scale of the development, the economic, social, and environmental benefits would be limited.
- 7.12 Substantial weight is attached to the benefits of increasing the supply of housing in meeting local need and the development would be energy efficient. However, the development would result in significant harm to the local landscape’s intrinsic character and distinctiveness, particularly views to and from the designated heritage assets of the Derwent Valley Mills World Heritage Site and Matlock Bath Conservation Area.
- 7.13 In this case, the adverse impacts of granting planning permission would, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposed scheme would not therefore be sustainable development for which the presumption in favour applies.

The effect of the proposal on the character and identity of the settlement and the local landscape

- 7.14 A key consideration in respect of this application is the impact of the development on the local landscape and character, identity and setting of the existing settlement. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017) advises that development will conserve and where possible enhance the natural and historic environment, including settlements within the plan area.
- 7.15 Policy PD1 requires all development to be of high quality design that respects the character, identity and context of the Derbyshire Dales townscapes and landscapes. In addition, Policy PD5 deals specifically with landscape character and advises that development that would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement will be resisted.
- 7.16 The site is located within Starkholmes which is an area of Matlock defined by its architectural and historic development as well as use of natural materials particularly stone. The proposed development does not contribute positively to the local distinctiveness or character of the area. The introduction of timber cladding is not in keeping with the surrounding area which is dominated by cottages in stone masonry and domestic constructions with short roof spans. Introduction of such design and materials would be incongruous and would have a detrimental impact on the consistent urban form in the immediate locality.
- 7.17 The proposed development would therefore not be in accordance with policy PD1 of Adopted Derbyshire Dales Local Plan (2017)

Highway Safety

- 7.18 It is noted that concerns have been raised by Local Residents regarding the highway safety implications of the proposed development.
- 7.19 The proposed access would be taken off Starkholmes Road close to the existing on street parking spaces. The initial comments received from the Local Highways Authority raised concern with the proposed access due to the limited visibility splay available. Following the submission of updated plans which now show the boundary wall reduced to 600mm the Local Highways Authority have confirmed they have no objection to the development. There is deemed to be appropriate emerging visibility from the new access for a road of this speed.
- 7.20 The proposed development includes 3 vehicular parking spaces which is considered to be in accordance with policy HC21 of the Adopted Derbyshire Dales Local Plan (2017).
- 7.21 Subject to conditions as set out in the consultations response received from the Local Highway Authority, the proposed development is not considered to result in any adverse highway safety impacts and would provide sufficient vehicular parking. The development would be in accordance with policies S3, PD1, HC19 and HC21 of the Adopted Derbyshire Dales Local Plan (2017) in this regard.

Residential Amenity

- 7.22 Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017) requires development proposals to achieve a satisfactory relationship with adjacent development and not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

- 7.23 The closest dwelling (no 215) is circa 16m from the proposed dwelling and is separated by Starkholmes Road. Given the separation distance and proposed landscaping, the proposed development will not cause unacceptable harm to the closest dwelling.
- 7.24 The development would be accessed via new access off Starkholmes Road which would be acceptable in principle. Additional vehicle traffic would not harm the amenity of occupants of existing properties along Starkholmes. There may be additional vehicle traffic and disturbance during construction, however this would be for a limited period and would not constitute a reason for refusal of planning permission subject to appropriate working hours as requested by Environmental Health Officers.
- 7.25 The development is considered to maintain a satisfactory relationship with surrounding developments and would be in accordance with policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

Climate Change

- 7.26 Policy PD7 of the Adopted Derbyshire Dales Local Plan (2017) states that the District Council will seek to mitigate global warming, adapt to climate change and respect our environmental limits. The District Council also have an Adopted Climate Change SPD which provides guidance on the implementation of policy PD7 structured around the following objectives:
- Securing enhanced green infrastructure
 - Managing drainage, flood risk and conserving water
 - Using less energy, increasing energy efficiency and promoting renewable energy
 - Reducing the need to travel and promoting sustainable transport
 - Improving building design and layout to meet the objectives
- 7.27 The application is submitted alongside a Climate Change Checklist which provides an overview of the sustainability measures that have been incorporated into the proposed development. The submitted statement sets out that the development will be carried out with a detailed landscaping plan which incorporates the planting of new trees and enhancements to the green infrastructure including an extensive green roof.
- 7.28 Additional sustainability measures include:
- timber construction to provide excellent thermal efficiency and air tightness;
 - inclusion of timber 'fins' allows for shading to windows, whilst the south facing glazing maximises solar gain;
 - Grey water system to minimize water consumption;
 - Heat source pump; and
 - Electric vehicle charging points
- 7.29 In order to secure such measures, specific details of the materials or measures outlined above would be required by condition. Similarly, it is also considered to be necessary to secure the EV charging points by condition.

Impact on trees and biodiversity

- 7.30 The development area does not form part of any internationally or nationally designated site and the site is identified as other neutral grassland.
- 7.31 Policy PD3 seeks to protect, manage and where possible enhance biodiversity by ensuring that development will not result in harm. Development will not be permitted which directly or indirectly results in significant harm to biodiversity interest unless it can be demonstrated

that there is no appropriate alternative site available, statutory and regulatory requirements have been satisfied and appropriate conservation and mitigation measures are provided. Policy PD3 also encourages development to include measures to contribute to biodiversity to ensure that there is a net overall gain to biodiversity.

- 7.32 The application was submitted with a Preliminary Ecological Assessment (February 2024), Biodiversity Impact Assessment (February 2024) and Small Sites Metric Calculation Tool (February 2024), all which have been prepared by Weddles.
- 7.33 Derbyshire Wildlife Trust are satisfied that the proposed development will not result in harm to protected species however some concerns were raised in relation to BNG due to the trading rules not being satisfied within the assessment. The DWT requested a copy of the excel metric in order to review the exact details of the trading rules. A copy has since been submitted and DWT have been reconsulted however a response is still outstanding. An update will be provided to member in either the late representations or verbally at the Planning Committee.
- 7.34 In relation to trees, the only potentially significant harmful impact to trees on and close to the site from the proposed development would be development within the root protection area of the large mature off-site beech tree, identified as T1 on the submitted Tree Constraints Plan. The DDDC Tree Officer had initial concerns over the proposed layout and requested all development to be removed from its root protection area in order to prevent any potential harm to the rooting system of the tree or compaction / contamination of the soil within its root protection area.
- 7.35 An amended site plan has been received and following re-consultation the DDDC Tree Officer confirmed that the updated proposals appear to be less harmful as the development has been largely excluded from their root protection areas. There is still some concern regarding potential ground level changes or underground services installations within the root protection areas which would be important and could be harmful to the trees, however it is anticipated that this could be resolved via a suitably worded condition.
- 7.36 In terms of potential impact to significant trees the updated proposals (I am assuming the dashed blue lines on Site Plan as Proposed the represent the trees root protection areas). The development therefore demonstrates that, subject to planning conditions, it can be accommodated on the site without harm to protected species or their habitat and that it would achieve biodiversity net gain in accordance with policy PD3.

Ground Conditions

- 7.37 Policy PD9 requires the Council to ensure that sites are suitable for their intended use taking account of ground conditions and land instability. A number of residents have raised concern regarding the ground instability of the site and surrounding area and question whether it is appropriate to undertake extensive ground works at the site. No ground condition survey has been submitted with the planning application and it is not necessary to request such an assessment due to the lack of principle at this location.

8.0 RECOMMENDATION

That planning permission be refused for the following reasons:

1. The proposal would result in an unwarranted and incongruous form of development that would fail to preserve or enhance the character and appearance of its edge of settlement location. It is considered that whilst the level of harm would not be substantial that this harm is not outweighed by public benefits to be derived from the provision of a single dwelling to seek to address the District Council's inability

to demonstrate a five year housing land supply going forward. The dwellinghouse is also unwarranted as a new build holiday let and, as such, the proposals are contrary to the aims of Policies S1, S4, PD1, PD2, and PD5 of the Adopted Derbyshire Dales Local Plan (2017) and government guidance contained in the National Planning Policy Framework.

9.0 NOTES TO APPLICANT:

1. The Local Planning Authority prior to the submission of the application engaged in a positive and proactive dialogue with the applicant which resulted in the submission of a scheme that overcame initial concerns relating to dormer addition.
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 permission relates solely to the application.

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NOT CONFIDENTIAL - For public release

PLANNING COMMITTEE – 9 JULY 2024

PLANNING APPEAL – PROGRESS REPORT

Report of the Corporate Director

REFERENCE	SITE/DESCRIPTION	TYPE	DECISION/COMMENT
Southern			
17/00752/FUL	The Manor House, Church Street, Brassington	WR	Appeal being processed
22/01339/FUL	Lot 2, Leys Farm, Wyaston Road, Ashbourne	INQ	Appeal allowed – Copy of appeal decision attached
23/00025/FUL	Land East Of, Turlowfields Lane	WR	Appeal dismissed – Copy of appeal decision attached
23/00829/FUL	Collycroft Cottage (Sessions), Collycroft Hill, Clifton	WR	Appeal dismissed – Copy of appeal decision attached
23/00358/FUL	Land to the North of Gorse Lane, Kirk Ireton	WR	Appeal dismissed – Copy of appeal decision attached
23/00727/FUL	The Barn, Upper Lane, Hulland Ward, Biggin	WR	Appeal being processed
23/00898/FUL	Cedar Lodge, Dark Lane, Ashbourne	HOUSE	Appeal dismissed – Copy of appeal decision attached
23/00616/OUT	Land to the south of Main Road, Brailsford	HEAR	Appeal being processed
23/01226/FUL	3 Orchard View, Marston Montgomery	HOUSE	Appeal dismissed – Copy of appeal decision attached
ENF/23/00124	Land North of Park House Farm – Wyaston Road, Yaveley	WREP	Appeal being processed
24/00020/FUL	Hackney Lane Farm, Old Hackney Lane, Hackney	HOUSE	Appeal being processed
23/01249/FUL	Barn At Oak Tree Farm, Nether Lane, Biggin, Ashbourne	WREP	Appeal being processed

23/01298/FUL	Hole In The Wall, Yeldersley Lane, Bradley	HOUSE	Appeal being processed
23/01224/FUL	Hulland Hall, Hulland Village	WREP	Appeal being processed
23/01225/LBALT	Hulland Hall, Hulland Village	WREP	Appeal being processed
24/00021/PDA	Stoneleigh Farm, Derby Lane, Cubley	WREP	Appeal being processed
24/00066/FUL	Adjacent to White House, Aston Lane, Sudbury	WREP	Appeal being processed
Central			
22/00772/OUT	Land opposite The Homestead, Whitworth Road, Darley Dale	WR	Appeal being processed
ENF/23/00037	Land south of Yeats Lane, Cromford	WR	Appeal part allowed – part dismissed – Copy of appeal decision attached
ENF/23/00032	Spitewinter Farm Oakerthorpe Road, Bolehill, Wirksworth	WR	Appeal being processed
23/00418/FUL	Land Adjacent 11, Little Bolehill, Bolehill	WR	Appeal being processed
22/00634/DCOND	Land to side of Millers Green, Wirksworth	WR	Appeal being processed
ENF/23/00064	5 Hackney Road, Hackney	WR	Appeal being processed
23/00535/FUL	Land North of Old Hackney Lane, Hackney, Matlock	HEAR	Appeal being processed
22/01400/FUL	A6 Truck Stop, Dale Road North, Darley Dale	WR	Appeal being processed
ENF/23/00105	Red House Stables, Old Road, Darley Dale	WR	Appeal being processed
23/01127/FUL	Starth House, Starth Lane, Matlock	WR	Appeal being processed
23/01004/FUL	One Stop, Lime Tree Road, Matlock	WR	Appeal being processed
23/01288/FUL	White House, Church Road, Church Town, Darley Dale	WR	Appeal being processed

23/01289/LBALT	White House, Church Road, Church Town, Darley Dale	WR	Appeal being processed
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WR - Written Representations
IH - Informal Hearing
PI – Public Inquiry
LI - Local Inquiry
HH - Householder

OFFICER RECOMMENDATION:

That the report be noted.

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Appeal Decision

Inquiry Held on 8 - 10 May, 21 - 24 May and 29 May 2024

Site visit made on 28 May 2024

by H Butcher BSc (Hons) MSc PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st June 2024

Appeal Ref: APP/P1045/W/24/3337912

Lot 2, Leys Farm, Wyaston Road, Ashbourne, Derbyshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Woodall Homes against the decision of Derbyshire Dales District Council.
 - The application Ref 22/01339/FUL, dated 25 November 2022, was refused by notice dated 15 December 2023.
 - The development proposed is a residential development of 87no. dwellinghouses together with associated landscaping, infrastructure and access.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development of 87no. dwellinghouses together with landscaping, infrastructure and access at Lot 2, Leys Farm, Wyaston Road, Ashbourne, Derbyshire in accordance with the terms of the application, Ref 22/01339/FUL, dated 15 December 2023, subject to the conditions in the attached schedule.

Preliminary Matters

2. The original planning application was for 102 dwellings but this was reduced to 87 during the course of the application, and, as agreed by both the appellant and the Council the application was determined on this basis. I have therefore amended the description of development in the banner heading and my decision accordingly.
3. No site address was given on the application form therefore I have used the site address from the appeal form and the decision notice.
4. The inquiry was held in Matlock, Derbyshire at the Council offices. The public were invited to attend and a session for interested parties was held on Day 1 of the Inquiry. The event was also live streamed/recorded. I am therefore satisfied that no one was prejudiced in terms of being able to take part in the formal proceedings.

Application for Costs

5. At the Inquiry an application for costs was made by Woodall Homes against Derbyshire Dales District Council. This application is the subject of a separate Decision.

Main Issues

6. The appellant stated at the Inquiry that they wished the appeal to be determined on the basis that the pedestrian path to the north-west of the site be removed. The Council raised no objection. Such an amendment would not result in a substantial difference or a fundamental change to the application. I am also satisfied that its removal would not cause unlawful procedural unfairness to anyone involved in the appeal. I have therefore considered the appeal on this basis. As a result, the Council confirmed that they would no longer be defending reason for refusal 7.
7. During the course of the Inquiry the Council also withdrew the second part of reason for refusal 1 relating to the transport network, and reasons for refusal 3, relating to surface and foul water flows, 4, relating to housing mix, and 6, relating to Biodiversity Net Gain. I am satisfied with the conclusions drawn by the main parties on these matters.
8. Consequently, the remaining main issues are:
 - The effect of the development on highway safety;
 - Whether the site is a suitable location having regard to accessibility; and,
 - Whether the development would deliver good design and the effect of the development on the character and appearance of the surrounding area.

Reasons

Highway Safety

9. The proposed development would be served by a new access onto Wyaston Road. The Council rely on a Stage 1 Road Safety Audit (RSA) in making their case in respect of the safety of this access and it identifies a number of problems with the proposed new junction.
10. Problem 1 in the RSA identifies a danger relating to pedestrians walking south out of the proposed access, along a service strip at the edge of the development, and then along a section of public highway in order to join a footpath further along. Given the narrow nature of Wyaston Road in this direction it would not be safe for pedestrians to walk in the highway here. However, there is no clear destination to the south of the proposed access, achievable on foot, which has been identified to me as a draw for future residents of the development, including dog walkers. Indeed, Photo 2.1-2 of the Council's RSA is annotated thus: "*Southern end of existing footway does not lead to anywhere*". Therefore, even if the site was linked to this footway, it would simply encourage pedestrians to travel a route which has no destination leading them further along this highway to a point where there is no footway posing a highway safety issue. Conversely, not providing this link would encourage pedestrians to take a route north out of the site, which is safer and preferable as it is where local amenities, transport links, and numerous other residential properties are located.
11. Problems 2, 3 and 4 all relate to visibility to the south of the proposed access creating a risk of side-impact collisions and/or nose to tail shunts. Wyaston

- Road to the south is narrow, winding, subject to steep gradients, and a 60mph national speed limit. Nevertheless, evidence submitted by the appellant shows the application of the Manual for Streets Visibility Tool¹. This takes into account matters such as gradient and vehicle speeds to ascertain the required visibility splays. The output of this is reflected on the submitted Proposed Site Access²; specifically, a visibility of 2.4x42.7m is shown to be achievable to the south of the proposed access. Suitable conditions could be applied to any subsequent permission to ensure these visibility splays were provided and maintained in perpetuity.
12. The Council's RSA recommends the relocation of the 30mph speed limit at the edge of Ashbourne further south to encourage lower approach speeds to the proposed access, together with other measures to complement the new speed limit. It is worth noting, however, that vehicle speeds recorded in the appellant's traffic surveys found that the average speed of vehicles travelling northbound entering Ashbourne were relatively low (the 85th percentile being approximately 32mph) despite this section of Wyaston Road being subject to a 60mph national speed limit. This fits with my experience of driving this section of highway as the curves, changing gradient, and narrowness of the road naturally suppresses speed.
 13. In any event, where off-site works to an existing highway such as the relocation of speed limits may be required to mitigate the effects of new development, the developer will usually enter into an agreement with the Council under s278 of the Highways Act 1980. This would typically cover such matters and is at the discretion of the Highway Authority where it would be in the public interest. It is therefore a matter which can be dealt with outside of the appeal process. In respect of suggestions that the carriageway to the south of the access would need to be widened there is no substantive evidence before the Inquiry to suggest this would be necessary.
 14. Problem 5 concerns existing signage and a gully which could pose a hazard to drivers as a result of the new access. This would also fall to be considered pursuant to s278 of the Highways Act 1980.
 15. Finally, Problem 6 concerns the buildouts within the new internal road of the development which could cause tyre damage due to sharp angles at their corners. However, the detailed design of this road would be subject to agreement with the Highway Authority who would require it to be constructed to adoptable standards.
 16. Taking all of these matters into consideration I find that the proposal would not result in an unacceptable impact on highway safety. It is also notable that the Highway Authority no longer raise an objection to the development on any highway related grounds. I therefore find no conflict with the relevant provisions of Policies S4 and HC19 of the Adopted Derbyshire Dales Local Plan (LP) which concern the provision of safe access to development.

Accessibility

17. The market town of Ashbourne and all the amenities it provides as a First Tier Settlement, as defined in the LP, is a significant walk from the development site. However, there is a bus stop on Wyaston Road which is a short walk from

¹ Appendix E of CD2.17 Transport Assessment Rev V03

² Plan no: 600539-HEXA-XX-XX-DR-TP-0103 Rev P05

- the proposed entrance to the development and this provides hourly services throughout the day, every day, including Sundays and Bank Holidays, to the centre of Ashbourne and further afield to Uttoxeter.
18. The Council raise concerns over the distance from the westernmost corner of the development. However, in my view, walking a relatively short distance along the main route serving the development would not pose a significant detractor to persons wishing to access bus services on Wyaston Road, particularly as it would not be a heavily trafficked road, would be well-lit, well-overlooked, and would provide suitable walkways.
 19. The Council also raise concern over the site's gradient as being a barrier to future occupiers using the bus stop on Wyaston Road. However, the main route through the development would not traverse significant changes in levels either on-site or in relation to Wyaston Road, and therefore would not result in an overly steep route to navigate on foot. I therefore find that public transport would be a genuine and realistic option for future occupiers of the development.
 20. In addition to this there is a primary school located within reasonable walking distance to the site, closely located to the bus stop referred to above. Primary schools generally attract a lot of traffic and for many people are part of their everyday travel.
 21. Cycling to Ashbourne would also be a suitable option given the distances and routes involved. The site's gradient, for the reasons already set out, would again not be a significant deterrent in this regard.
 22. It is also worth noting a Travel Plan to encourage the use of sustainable transport modes for future occupiers could be secured by condition and legal agreement. Furthermore, a condition could be included to provide cycle storage for each property.
 23. Overall, therefore, I consider the site is in an accessible location and would offer a genuine choice of transport modes. Whilst the site now has no other connectivity other than its main access, the previous pedestrian link to Premier Avenue having been removed, this does not alter my overall findings on accessibility. I therefore find no conflict with Policies HC19 of the LP or TRA1 of the Ashbourne Neighbourhood Plan (NP) which seek to minimise the need to travel, particularly by unsustainable modes of transport.

Design

24. The proposed development would largely comprise a long spine road ending at a dead end, described variously in the Inquiry as a long cul-de-sac. This is, as noted by the appellant, due to the site's topography as the spine road would broadly follow a contour in the land in order to avoid significant height changes within the development.
25. The Council highlight that the National Model Design Code (MDC) states that cul-de-sacs should only be used as tertiary streets for access to small groups or clusters of homes. However, the MDC is guidance and not a statement of national policy, and it is designed to provide detailed guidance for Local Authorities in producing their own design codes, guides, and policies which should be tailored to the circumstances of each place. In this case, the proposed layout works with the specific topography of the site allowing the

- development to visually nestle into the landscape along a contour and leaving the steepest parts undeveloped.
26. The development would be broadly inward facing along the spine road but this would make for an attractive environment internally where properties would engage with and address internal areas of public open space. Given the extensive landscaping around the periphery of the site to be retained along with proposed landscaping this layout would not have a harmful impact on the wider character and appearance of the area. It would simply appear as a sympathetic and well landscaped extension to existing residential development in this area.
 27. Importantly, the design at the entrance to the development from Wyaston Road would resolve a rather unsatisfactory relationship which currently exists between the adjacent residential development and Wyaston Road. Here close board fencing to the rear of the end property marks the entrance to Ashbourne when travelling north along Wyaston Road. Conversely the proposal would soften this edge with properties set back from and addressing Wyaston Road behind areas of landscaping and brick wall boundary features resulting in a more marked and pleasant arrival point to the town.
 28. The materials to be used in the construction of the development would feature two types of red brick with grey tiles. This is broadly in-keeping with the materials used in the area of "mellow red brick with Staffordshire blue clay tile roofs" and a condition would ensure the Council had control over the final choice of materials. Some 16 house types would be used in the development providing consistency of design but not homogeneity. The detailed design would be high as evidenced by the inclusion of chimneys, bay windows, and eaves detailing. The slight undulation of the properties as they respond to the topography of the site would also be in-keeping with Derbyshire townscapes.
 29. The Council raise concern over boundary treatments but again, appropriate boundary treatments, if secured by condition, are within the control of the local planning authority.
 30. Affordable housing is included within the development but is not confined to one area. I also find no reason to conclude that these properties would be significantly disadvantaged in comparison to the market housing proposed as they would be built of the same materials and integrated into the development and its open spaces with adequate outlook and light.
 31. During the Inquiry much was made regarding the requirement in the National Planning Policy Framework (the Framework) that new streets be tree-lined (para 136). Trees do appear in the plans before me intermittently lining various sides of the main access road through the site. Whilst the proposed trees would not be regimentally set out lining both sides I consider this to be appropriate given the semi-rural and more loosely landscaped character of the surrounding area. This accords with the Framework's guidance on tree-lined streets which requires consideration of the appropriateness of such an approach in all cases (footnote 53).
 32. In terms of the connectivity of the site I have dealt with that in the section above on accessibility.

33. Taking these points together I find that the development would deliver good design and would respond positively to the character and appearance of the surrounding area. Accordingly, I find no conflict with policies PD1 of the LP and DES1 of the NP which require high quality sustainable design.

S106 Agreement

34. A signed and dated tri-lateral agreement under S106 of the Town and Country Planning Act 1990 has been submitted which provides for various obligations. In line with Regulation 122(2) of the CIL Regulations 2010 (as amended) the Framework explains in paragraph 57 that planning obligations must only be sought where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. It is therefore necessary for me to consider these obligations in detail and reach a finding on them having regard to the above tests. I consider these in turn below.
35. The first schedule sets out the owners' covenants to the District Council and the County Council. The first of these is affordable housing provision and an off-site affordable housing contribution. This is in line with Policy HC4 of the LP in that it provides 30% of the net dwellings proposed as affordable housing; the shortfall made up by an off-site contribution. I am therefore satisfied that this obligation meets the relevant tests.
36. A contribution towards allotments is requested. The justification for this and method of calculation is set out in the Derbyshire Dales Developer Contributions Supplementary Planning Document (SPD). Consequently, I find that this obligation meets the relevant tests.
37. The healthcare contribution would be used to increase clinical capacity in Ashbourne proportionate to the scale of housing development proposed. A detailed calculation for the contribution sought has been supplied. This contribution therefore meets the relevant tests.
38. A parks and gardens contribution is sought. Again, the justification for this and method of calculation is set out in the SPD. Consequently, I find that this obligation meets the relevant tests.
39. A contribution towards library stock to mitigate additional demand on library services is included. Ashbourne library is able to accommodate the additional demand generated by the development but additional stock would be required. The contribution sought would therefore cover this and the evidence before me sets out how this contribution has been calculated. This therefore meets the relevant tests.
40. A Travel Plan Monitoring Sum and Travel Plan Bond are required to monitor and review the plan and for purposes of implementing revised targets following a failure to meet the targets identified. This is necessary to ensure the public benefits of sustainable travel are realised and accounted for.
41. In summary all the obligations meet the tests of the Framework and fully comply with the requirements of Regulation 122(2) of the CIL Regulations 2010.

Other matters

42. It is agreed that the Council do not have a five-year supply of housing land. By the end of the Inquiry the Council's Housing Land Supply Figure was 4.01 years whilst the appellant placed it at 3.07 years.
43. The proposal would result in an increase in vehicular movements on the local transport network. Whilst it is now accepted by the Council that there would not be an unacceptable impact on highway safety, I, nevertheless, accept that there would be some adverse impact on the transport network. This would not, however, of itself, be sufficient to warrant a reason to dismiss the appeal.
44. I am satisfied adequate parking could be provided and I have included relevant conditions to protect the living conditions of occupiers of neighbouring properties. I find no reason to conclude that cyclists would be put in danger due to the proposed development and access.
45. Whether there is a need for housing is not a matter on which this case turns. Finally, there is no substantive evidence before me that the proposal would result in increased flood risk elsewhere. Furthermore, the Council no longer objects to the proposal on flood risk or drainage grounds.

Conditions

46. A list of draft conditions was provided. I have considered these in line with the advice contained at paragraph 56 of the Framework i.e., that they are kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. I have carried out minor editing and removed any duplication.
47. In addition to the standard time limit condition (1) I have included a plans condition for certainty (2). For health and safety reasons conditions 3 and 4 are necessary to protect against contamination. In the event that contamination was found on site it would not be sufficiently precise to cease works for the extent of the area affected by contamination, therefore, I have not included this in my condition.
48. To ensure a satisfactory form of development condition 5 requires the submission of finished floor levels and ground levels through the site. Condition 6 - 10 are also necessary to safeguard protected and/or priority species. Conditions 11 and 12 ensure suitable surface water drainage of the site during construction and beyond.
49. In the interest of highway safety I have included conditions 13 and 14. Conditions 15 - 17 promote sustainable transport. The planning obligation provides for the event that the Travel Plan fails to meet its targets therefore it is not necessary to include this in a condition.
50. Conditions 18 and 19 are necessary to protect the living conditions of occupiers of neighbouring properties. To protect retained trees and shrubs on site I have also included condition 20.
51. Conditions 21 - 23 ensure suitable hard and soft landscaping. Condition 24 is necessary mitigate the effects of and adapt to climate change. Finally, conditions 25 and 26 are necessary to ensure a satisfactory appearance.

52. I find no clear justification for the removal of permitted development rights in respect of Class AA and Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.
53. The pre-commencement conditions I have included are necessary as the measures outlined in each are required to protect against impacts which may otherwise be realised during the construction period.
54. Following the submission of additional evidence from Severn Trent Water (ID13) the Council agreed that there was no longer a requirement for a condition relating to foul drainage.

Conclusion

55. I have found that the proposals accord with an up-to-date development plan and as such should be approved without delay. There is no need, therefore, for me to consider in detail the extent of the Council's Housing Land Supply shortfall as it would not alter the outcome of this appeal.

H Butcher

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan 001 Rev A
 - Planning Layout – 008 Rev O
 - Adoptable Areas Plan – 400 Rev I
 - Materials Plan – 600 Rev I
 - Enclosures Plan – 700 Rev I
 - Internal Highway Layout - 600539-HEX-XX-XX-DR-TP-0105 Rev P04
 - Proposed Site Access - 600539-HEXA-XX-XX-DR-TP-0103 Rev P05
 - General Arrangement – 11008-FPCR-XX-XX-DR-L-0001 P10
 - Structural Landscape Detailed Plan (Sheet 1 of 3) - 11008-FPCR-XX-XX-DR-L-0002 P10
 - Structural Landscape Detailed Plan (Sheet 2 of 3) - 11008-FPCR-XX-XX-DR-L-0003 P10
 - Structural Landscape Detailed Plan (Sheet 3 of 3) - 11008-FPCR-XX-XX-DR-L-0004 P10
 - Private On Plot Detailed Landscape Plan (Sheet 1 of 4) - 11008-FPCR-XX-XX-DR-L-0005 P10
 - Private On Plot Detailed Landscape Plan (Sheet 2 of 4) - 11008-FPCR-XX-XX-DR-L-0006 P10
 - Private On Plot Detailed Landscape Plan (Sheet 3 of 4) - 11008-FPCR-XX-XX-DR-L-0007 P10
 - Private On Plot Detailed Landscape Plan (Sheet 4 of 4) - 11008-FPCR-XX-XX-DR-L-0008 P10
 - Sudbury Elevations and Floor Plans – 100-01
 - Kedleston Elevations and Floor Plans – 100-01
 - Beal (Corner turner) Elevations and Floor Plans – 100-01
 - Beal Elevations and Floor Plans – 100-01
 - Hardwick Elevations – 100-01
 - Hardwick Floor Plans – 100-02
 - Trowbridge Elevations and Floor Plans – 100-01
 - Trowbridge V1 Elevations and Floor Plans – 100-01
 - Petworth Elevations and Floor Plans – 100-01
 - Winster Elevations – 100-01
 - Winster Floor Plans – 100-02
 - Buckingham Elevations and Floor Plans – 100-01
 - Bradwell Variant 1 Elevations – 100-01
 - Bradwell Variant 2 Elevations – 100-02

Bradwell Variant 3 Elevations – 100-03
Bradwell Floor Plans – 100-04
Westbury Elevations – 100-01
Westbury Floor Plans – 100-01
Liversage Elevations – 100-01
Liversage Floor Plans – 100-01
Hemlock Elevations – 100-01
Hemlock Floor Plans – 100-02
1 Bed Quad Block Elevations – 100-01 Rev A
1 Bed Quad Block Floor Plans – 100-02 Rev A
Bed Quad Block (Hipped Roof) Elevations – 100-01 Rev A
1 Bed Quad Block (Hipped Roof) Floor Plans – 100-02 Rev A
2 Bed Affordable Elevations – 100-01
2 Bed Affordable Floor Plans – 100-02
Bed Affordable Elevations – 100-01
3 Bed Affordable Floor Plans – 100-02
Single Garage Floor Plans and Elevations – 100-01
Single Garage 1 Floor Plans and Elevations – 100-02
Shared Garage Floor Plans and Elevations – 100-03

- 3) Any contamination that is found during the course of construction of the development that was not previously identified shall be reported immediately to the local planning authority. Development shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. The approved schemes shall be carried out before development is continued.
- 4) In the event that it is proposed to import soil onto site in connection with the development the proposed soil shall be sampled at source and analysed in a UKAS accredited laboratory. The results of the analysis, and an interpretation, shall be submitted to the local planning authority for consideration prior to importation. Only soil approved in writing by the local planning authority shall be used on site.
- 5) No development shall commence until details of finished floor levels and ground levels throughout the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall commence (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP:

Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones";
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and,
- h) Use of protective fences, exclusion barriers and warning signs;

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period.

- 7) No development shall commence until a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) has been submitted to and be approved in writing by the local planning authority. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the approved Biodiversity Metric 'Biodiversity Metric dated 21.02.24' and to achieve no less than a [+14.33%] net gain. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:
 - a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric;
 - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric;
 - c) Appropriate management methods and practices to achieve aims and objectives;
 - d) Prescriptions for management actions;
 - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity);
 - f) Details of the body or organization responsible for implementation of the plan;
 - g) A monitoring schedule to assess the success of the habitat creation and enhancement;
 - h) Measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years;
 - i) Monitoring reports to be sent to the Council at each of the intervals above;
 - j) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met;

- k) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022;
- l) Requirement for a statement of compliance upon completion of planting and enhancement works; and,
- m) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The development shall not be carried out other than in accordance with the approved details.

- 8) No development shall commence (including preparatory site clearance) until a Badger Mitigation Strategy has been submitted to and approved in writing by the local planning authority. The strategy shall include the following:
 - a) Results of a recent survey;
 - b) The specification and location for an artificial sett;
 - c) The location of any protective fencing, buffer zones or other construction-stage mitigation;
 - d) Details of landscaping to benefit or safeguard badgers on site; and,
 - e) Timetable for implementation.

The development shall not be carried out other than in accordance with the approved details.

- 9) Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the local planning authority. This should include measures to reduce lightspill to adjacent habitats likely to be used by foraging and commuting bats and badgers. The Strategy should provide details of the chosen luminaires, their locations, a lux contour plan and any mitigating features such as dimmers, PIR sensors and timers. The lighting fixtures shall be installed in accordance with the approved details and retained as approved thereafter.
- 10) No development shall commence until a detailed scheme for ecological enhancement based on the recommendations of the Ecological Appraisal November 2022 Rev A and the Bat Survey Report November 2022 has been submitted to and approved in writing by the local planning authority, including a timetable for implementation. The development shall be carried out in accordance with the approved details.
- 11) No development shall commence until a detailed design and associated management and maintenance plan of the surface water drainage for the site have been submitted to and approved in writing by the local planning authority. The plan shall be produced in accordance with the principles outlined within:
 - a) Flood Risk Assessment, prepared by Dice Consulting Engineers Ltd, Reference WAY-DCE-XX-XX-RP-C-0001 Revision PO5, dated July 2023; and,
 - b) DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

Prior to the first occupation of the development, a verification report carried out by a suitably qualified independent drainage engineer must be submitted to and approved by the local planning authority demonstrating that the drainage system has been constructed as per the agreed design and associated management and maintenance plan.

- 12) No development shall commence until details showing how additional surface water run-off from the site will be avoided during the construction phase have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) No dwelling shall be occupied until the access, parking and turning facilities for that individual dwelling has been provided as shown on drawing 600539-HEX-XX-XX-DR-TP-0105 P04 Internal Highway Layout.
- 14) No dwelling shall be occupied until the site access works including visibility splays shown on drawing 600539-HEXA-XX-XX-DR-TP-0103 P05 have been constructed and completed. The visibility splays as shown on the plan shall be kept free from obstruction in perpetuity.
- 15) No dwelling shall be occupied until sheltered, secure and accessible bicycle parking has been provided in accordance with details which shall first be submitted to and approved in writing by the local planning authority. The approved bicycle parking shall be permanently maintained for this purpose thereafter.
- 16) The development shall be brought into use in accordance with the Framework Travel Plan V03 dated 1st August 2023.
- 17) No dwelling shall be occupied until it provision has been made for it to connect to electric vehicle charging infrastructure to enable each plot to facilitate an electric vehicle charging point.
- 18) No development shall commence until details of a construction management plan (CMP) have been submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period. The plan/statement shall include but not be restricted to:
 - a) Parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - b) Advisory routes for construction traffic;
 - c) Any temporary access to the site;
 - d) Locations for loading/unloading and storage of plant, waste and construction materials;
 - e) Method of preventing mud and dust being carried onto the highway;
 - f) Arrangements for turning vehicles;
 - g) Arrangements to receive site deliveries;
 - h) Joint highway condition survey; and,
 - i) Methods of communicating the CMP to staff, visitors and neighbouring residents and businesses.

- 19) No site machinery or plant shall be operated, no process shall be carried out, and no demolition or construction related deliveries received or dispatched from the site, except between the hours of 08.00 – 18.00 Monday to Friday, 08.00 – 13.00 Saturday and at no time on Sundays, Bank or Public Holidays.
- 20) Prior to any site clearance, groundworks, excavations, demolition or construction works and before any materials or plant are brought onto the site for the purpose of the development, a site-specific tree protection plan and Arboricultural Method Statement shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 21) No development above slab level shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority, to be in general accordance with the approved Enclosures Plan and Landscaping Drawings and including street tress, the details of which shall include:
 - a) soil preparation, cultivation and improvement;
 - b) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
 - c) grass seed mixes and sowing rates;
 - d) gates, walls, fences and other means of enclosure;
 - e) hard surfacing materials;
 - f) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units and signs;
 - g) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
 - h) timescales for planting and implementation; and,
 - i) future management plan.

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

- 22) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
- 23) No more than 65 dwellings (75%) shall be occupied until play equipment for the Local Area for Play (LAP) has been installed in accordance with details which shall have first been submitted to and approved in writing by the local planning authority. The play equipment shall thereafter be retained and maintained throughout the lifetime of the development hereby permitted.
- 24) No development shall take place above slab level until a detailed scheme of measures to mitigate the effects of and adapt to climate change at the site along with a timetable for implementation has been submitted to and

approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the approved measures shall be maintained throughout the lifetime of the development hereby approved.

- 25) Samples of all materials 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 any work to any external surface is commenced. These details shall be broadly in accordance with those shown on the approved Materials Plan. The development shall be constructed in accordance with the approved details.
- 26) No external meter boxes shall be installed other than in accordance with details which shall have first been submitted to and approved in writing by the local planning authority.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

John Hunter

He called:

Paul Carey BEng CMICE

Matt Lally BA (Hons) MA MRTPI FRSA

Warren Boal CEng MCIWEM C.WEM

Sandra Ford PGTP MRTPI

Mike Hase BA (Hons) MRTPI

FOR THE APPELLANT:

Ms Alison Ogley

She called:

Matt Price BSc (Hons) MSc CTPP FCIHT

Jason McKellar MIHE HNC

Alex Roberts Joint Honors Degree in Urban and Regional Planning and Geography, Associate Member of the Institute of Economic Development

Mike Carr BA (Hons) LA DIP UD RUDP

Peter Hoy BSc (Hons) PG Cert

Timothy Jackson BA (Hons) Dip

Mark Bassett BA (Hons) Dip Tp MRTPI

INTERESTED PERSONS WHO SPOKE AT THE INQUIRY

Mr D Tyers

Mr Prince

INQUIRY DOCUMENTS

- ID1 Appearances for the appellant
- ID2 Appearances for the Council
- ID3 Appellant's opening statement
- ID4 Council's opening statement
- ID5 GG 119 Road Safety Audit
- ID6 LinSig 3.2 User Guide
- ID7 Plans for approval
- ID8 Google view of The Venue, Ashbourne
- ID9 Guidelines for Landscape and Visual Impact Assessment
- ID10 Dictionary definition of 'tree-lined'
- ID11 Note on foul drainage mitigation
- ID12 Planning Practice Guidance on water supply, waste water and water quality
- ID13 Email from Severn Trent Water
- ID14 Proof of Evidence Five Year Land Supply Addendum
- ID15 Schedule of Dispute/Agreed Sites
- ID16 Council's closing statement
- ID17 Appellant's closing statement

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Appeal Decision

Site visit made on 5 June 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2024

Appeal Ref: APP/P1045/W/23/3329871

Land east of Turlowfields Lane, Atlow, Derbyshire, DE6 1PZ

Easting: 424365 Northing: 348743

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Phil Kerry against the decision of Derbyshire Dales District Council.
 - The application Ref is 23/00025/FUL.
 - The development proposed is described on the application form as “change of use of land for glamping”.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At appeal stage the appellant submitted an Arboricultural Impact Assessment and supporting information relating to tree protection, together with an updated topographical survey. These documents were not seen by the Council at the time the planning application was in. However, the Council has had the opportunity to comment on this information as part of its appeal submission, albeit it has not done so. The additional information does not change the substance of the proposed development that was considered by the Council. Therefore, the Council and interested parties would not be prejudiced by my consideration of it.

Main Issues

3. The main issues are whether the proposed development would be in a suitable location having regard to accessibility; and the effect of the proposal on trees and hedgerows.

Reasons

Location

4. The appeal site is an area of land along Turlowfields Lane. It is largely grassed over and contains groups of trees which effectively divide the land into separate areas. There is a large storage building and a track at the site entrance, and the evidence also refers to a mobile home on the site, though that had been removed by the time of my site visit. The boundaries consist of trees and hedgerows and there is an access gate at the site entrance and fencing to the site frontage.

5. The site is located within the countryside for the purposes of the development plan, which consists of the Derbyshire Dales Local Plan (2017) (LP). LP Policy S1 sets out the principles of sustainable development. LP Policy S4 is supportive of development outside defined settlement boundaries where it represents sustainable growth of tourism or other rural based enterprises in sustainable locations where identified needs are not met by existing facilities.
6. LP Policy EC9 sets out a number of criteria for proposals for holiday chalets and caravan and campsites, including the requirement that the site is sustainably located within or in close proximity to a settlement with good connections to the main highway network, public rights of way or cycleways, and is either served by public transport or within a safe ten minute walk of regular public transport services.
7. These policies are broadly consistent with paragraph 88 of the National Planning Policy Framework (the Framework) which supports a prosperous rural economy and sustainable growth of all types of businesses in rural areas, including through sustainable rural tourism and leisure developments which respect the character of the countryside.
8. The site is in a remote location broadly between the settlements of Hognaston to the north-west, Atlow to the west and Hulland Ward to the south-east. Other than a public house, churches and village halls there appear to be a very limited range of facilities in Hognaston and Atlow. Hulland Ward has a larger, but still restricted range of facilities.
9. Reference is made in the evidence to nearby bus stops on Turlowfields Lane which are served by buses providing access between Matlock and Ashbourne. However, the evidence before me indicates that the service is infrequent, only operating around four times a day. The appellant also refers to other bus routes which can be accessed from Gibfield Lane, but this would involve around a 2km walk from the site along lanes which do not have footways or lighting. Given this, the bus services would be unlikely to prove a more convenient option than the private car. In this respect, I note that 20 car parking spaces are proposed within the appeal site, which reinforces my view that visitors would be likely to generate regular, frequent trips by car to obtain access to the site and make use of facilities and services. This is the least sustainable travel option.
10. Both Hognaston and Atlow are around a 2km walk from the site via Turlowfields Lane which is devoid of segregated footways, street lighting and in places is relatively narrow with poor visibility. Hulland Ward is a similar distance from the site along Turlowfields Lane and Dog Lane. The latter does not have footways for much of its length, or lighting. Both roads are subject to the national speed limit. There are public rights of way in the area, such as that which runs through fields from Turlowfields Lane to Atlow to the north of the site, but it is unlikely that these routes would be appealing to many given the undulating topography of the area. In these circumstances, I consider that walking to these villages is unlikely to be an attractive proposition to many visitors, particularly in inclement weather or the hours of darkness. Moreover, given the limited range of facilities in these villages, it is likely that visitors would travel to larger settlements considerably further away, such as Ashbourne, where there are a greater extent of facilities.

11. Some may choose to cycle to these villages or tourist and recreational attractions in the area, such as Carsington Water, but it is likely that many would not. Therefore, the site does not have good connections to the main highway network or public rights of way/cycleways.
12. The appellant states that private vehicles are expected in countryside locations and further, that visitors will wish to drive to glamping sites given that most are in remote locations. While Framework paragraph 109 recognises that sustainable transport solutions will vary between urban and rural areas, it also sets out that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The site would be isolated from even the most basic of essential facilities and regular public transport options. While the Highway Authority did not raise an objection in terms of the on-site parking facilities or highway safety, it is the poor level of accessibility of the site that makes it an unsustainable location for the proposal.
13. For the above reasons, I conclude that the appeal site would not represent a suitable location for the proposal having regard to accessibility. Therefore, the proposal would be contrary to LP Policies S1, S4 and EC9, the aims of which are set out above.

Trees and hedgerows

14. Although they are not protected under preservation orders, the groups of trees and hedgerows within the site and along its boundaries nevertheless make a positive contribution to the sylvan character of the area and would provide a good level of screening of the proposed development. The proposal would be accessed via the existing gated entrance on Turlowfields Lane. The access track would be extended north and east through to the centre of the site, with a car park formed close to the western site boundary.
15. The appellant's tree works plan identifies a number of trees and hedgerows to be removed within the site, while those on the site boundaries would be retained, including the Category A tree on the north-east boundary of the site. Although a bell tent would be located within the root protection area of this tree, it would be unlikely to significantly affect the long term health of the tree given that it would be placed above ground.
16. The relatively small number of trees and hedgerows that would be lost form part of larger groups, the majority of which would be retained and unaffected by the proposals. The extent of tree cover along the site boundaries would continue to be extensive. The higher quality retained trees would be protected and the construction of the main built elements of the development would not require excavation or other works within the root protection areas of retained trees. Replacement planting within the site could mitigate the impacts arising from the loss of the trees and hedgerows and could have been secured by condition had I been minded to allow the appeal.
17. For the above reasons, I conclude that the proposal would not significantly harm trees and hedgerows. As such it would comply with LP saved Policy PD6, which seeks to enhance and expand the District's tree and woodland resource, and retain and integrate trees and hedgerows within development wherever appropriate. It would also accord with the Framework's aims to ensure developments contribute to and enhance the natural and local environment.

Other Matters

18. The appellant refers to an exemption certificate for five shepherds huts and unlimited tents on the site, but this would not appear to allow for the erection of more permanent structures or associated engineering works. Moreover, the evidence provided indicates the certificate can be withdrawn at any time and will expire in 2026. Therefore, any such temporary use of the site as a fallback position does not outweigh the harm arising from the proposal or the conflict with the development plan.
19. The appellant indicates that they will consider applying for planning permission to use the land as a gypsy and traveller site in the event the appeal is unsuccessful. In this regard, reference is made to an appeal decision at Aston-on-Trent, together with the requirement for a minimum of nine gypsy and traveller pitches in the District for the period 2013 to 2033, as set out in LP Policy HC6. However, there is no certainty that such an application would be permitted having regard to the considerations that are taken into account in determining such proposals, including the sustainability of the location, as set out in Policy HC6. This matter does not provide justification for the proposal.
20. Interested parties have raised other concerns over the proposal, including amongst other things its effects on the landscape and highway safety. As I am dismissing the appeal for other reasons there has been no need for me to consider these matters further.

Planning Balance and Conclusion

21. I find that the proposal would not be significantly harmful in respect of its effect on trees and hedgerows. However, this lack of harm is a neutral factor rather than a benefit of the scheme. The harm that I have identified relating to the accessibility of the site means that the proposal would be unsustainably located, which weighs significantly against it.
22. The proposal would offer potential social and economic benefits in terms of providing new holiday accommodation, local employment opportunities and visitor spending in the area which would support the rural economy. Given the scale of the development proposed I attach only positive moderate weight to these benefits, which would be outweighed by my findings as to the harm that would be caused and the conflict with the policies I have referred to.
23. The proposal does not accord with the development plan as a whole and there are no other considerations of sufficient weight that indicate that I should take a different decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR



Appeal Decision

Site visit made on 25 May 2024

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/P1045/W/24/3337034

Collycroft Cottage (Sessions), Collycroft Hill, Clifton, Derbyshire, DE6 2GN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Sessions against the decision of Derbyshire Dales District Council.
 - The application Ref: 23/00829/FUL, dated 24 July 2023, was refused by notice dated 25 September 2023.
 - The development proposed is the conversion of a garage to form a holiday let.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposed conversion represents sustainable development, and
 - the effect of the conversion on the character and appearance of the area around Collycroft Hill.

Reasons

3. Collycroft Cottage is an end-terraced house, one of three traditional-style cottages set in open countryside to the south-west of Ashbourne and close to the village of Clifton. It is accessed from the main A523 road via Collycroft Hill. It has a detached double garage some 10-15 metres to the north, and the proposal would involve the conversion of the garage into a holiday let.
4. Policy S4 of the Council's Local Plan (LP) indicates that in the case of proposals to re-use an existing building or buildings that are capable and worthy of conversion, any such conversion should involve a building that positively contributes to an established local character and sense of place.
5. Policy HC8 of the LP indicates that outside of defined settlement development limits, the conversion of existing buildings to residential use from other uses will be permitted where all of the following criteria are met: a) the building is of permanent and substantial construction; b) the form, bulk and general design of the existing building makes a positive contribution to the character and appearance of its surroundings; c) the building can be converted without extensive alteration, rebuilding or extension; and d) the conversion does not have a detrimental impact upon the character and appearance of the building and its surroundings.

6. Policy EC8 of the LP indicates that Council will support the development of Peak District tourism and culture, and that this will be achieved by, amongst other things, supporting sustainable rural tourism.
7. The Council contends that the proposed holiday let would be remote from basic services and facilities and occupants would be reliant upon the private motor vehicle. The outbuilding itself is not of historic or architectural merit and does not make a positive contribution to its surroundings. Therefore, the proposal would result in an unsustainable and harmful form of development in the countryside.
8. The appellants contend that the appeal site is within walking distance of facilities at a nearby garden centre and the village of Clifton; that it would have no detrimental impact on the character and appearance of the existing building or the local area; that it is close to walking routes; and that it would support the local economy.

Sustainability

9. Collycroft Hill is a short, narrow cul-de-sac accessed from the A523 via Dobbinhouse Lane. There are no pavements along the road, nor are there pavements along the main A523, which is a busy main road and has a speed limit of 60mph in the vicinity of the appeal site. The main road is unlit, as is Collycroft Hill. The nearest facilities are the Fairways Garden Centre and The Cock Inn in Clifton. Both are around a 15-20 minute walk from the appeal property. In the case of the Garden Centre the walk would be along a main road with no footway or street lighting. In the case of the Inn, it would entail a walk along the main road and crossing the road, again with no street lighting. I do not consider it likely that occupants of the proposed holiday property would walk to these facilities, especially at night. Moreover, while these facilities offer meals and speciality food, they do not offer shopping for the range of day-to-day items usually required by self-catering tourists.
10. I have no details of footpaths or tourist walks in the vicinity, but from my site visit, it would seem likely that occupants of the holiday property would use a car to visit tourist facilities in the wider area, including the town of Ashbourne which is over 2 miles away. There would not appear to be any public transport facilities within easy reach of the appeal site.
11. In the light of the above, I consider that the proposal would not represent sustainable rural tourism. I acknowledge that occupiers of the holiday let would be likely to spend money in the surrounding area, but the benefits to the local economy would be very limited and this would not outweigh the lack of sustainability associated with the proposal by virtue of its relatively isolated location and the likely dependence of the occupiers on private car transport.

Character and appearance

12. The garage is a large, brick-built detached building situated some 10-15 metres away from Collycroft Cottage, and with a parking area to the front. The garage appears as a somewhat more modern building with a pitched roof, two sets of garage doors in the front elevation, a small ground-floor window at each end, and a small, covered lean-to at the side. The conversion would involve the creation of living accommodation in the ground-floor of the building, and two additional bedrooms in the roof space, one of which would include a Juliet

window in the side elevation. The garage doors would be replaced with full-height windows and a door, while the small window in the northern side elevation would be replaced with large patio doors.

13. On this issue, I consider that the garage, which is currently a relatively subdued building in its rural context, would not, as converted, sit comfortably with the associated Collycroft Cottage, or the rest of the traditionally designed cottages in the adjacent row. It would appear as a modern house with large amounts of glazing and uncharacteristic features. As such the conversion would have a detrimental impact upon the character and appearance of the building and its surroundings and would not positively contribute to the established local character.

Conclusion

14. In conclusion, I find that the proposed conversion would not represent sustainable rural tourism and would be harmful to the established local character and appearance of the area around Collycroft Hill. On this basis, it would conflict with Policies S4, HC8 and EC8 of the LP. Accordingly, I dismiss the appeal.

J D Westbrook

INSPECTOR

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Appeal Decision

Site visit made on 28 May 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/P1045/W/23/3329649

Land to the North of Gorse Lane, Kirk Ireton, DE6 3JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Norton Walling against the decision of Derbyshire Dales District Council.
 - The application Ref is 23/00358/FUL.
 - The development proposed is the erection of dwelling with associated access and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the policies of the Framework that are material to this case have not fundamentally changed. Therefore, I have proceeded to determine the appeal having regard to the revised Framework.
3. The appeal is accompanied by a revised Preliminary Ecological Appraisal (PEA). Whilst this was not before the Council when the planning application was determined, the appeal procedure has provided an opportunity for the parties to comment on the assessment. As such, I am satisfied that no party has been prejudiced.

Main Issues

4. The main issues in this appeal are:
 - whether the appeal site would provide a suitable location for housing having regard to the Council's spatial strategy;
 - the effect of the proposal on the character and appearance of the area, and the extent to which it would preserve or enhance the character or appearance of the Conservation Area; and,
 - the effect of the proposal on protected species and biodiversity.

Reasons

Suitability of the site location

5. Policy S2 of the Derbyshire Dales Local Plan 2017 (Local Plan) sets out the Council's spatial strategy for the area. The settlement hierarchy seeks to distribute development to the most sustainable locations ensuring that

development reduces the need to travel and promotes sustainable communities based on services and facilities that are available in each settlement. For the purposes of Policy S2, Kirk Ireton is defined as a 'Tier 4' settlement. Whilst the appellant submits that the site would be adjacent to the settlement boundary, the physical extent of settlements have been defined to encompass Tiers 1 to 3 only. In Tier 4 locations, Policy S2 indicates that new development should be accommodated through infill and consolidation of the existing built framework or be well related to the existing pattern of development and surrounding land uses, and not lead to prominent intrusion into the countryside.

6. Whilst within proximity of the main settlement, the appeal site is physically distinct from the village nuclear and divorced from the nearest property by a spacious area of intervening garden land. It therefore could not reasonably be described as infill or consolidation of the existing built framework. Moreover, given the site's physical and visual disconnect from the existing built form and relationship with the surrounding fields, it relates more to the countryside. Accordingly, for the purpose of the development plan, the appeal site would be considered countryside. In such areas, Policy S4 indicates that development will be strictly limited to that which has an essential need to be in such a location or where the proposal would accord with Policy S2. For the above reasons, this would not be so in this case.
7. Accordingly, I find that the appeal site would not provide a suitable location for housing having regard to the Council's spatial strategy. It would therefore conflict with Policies S2 and S4 of the Local Plan, the aims of which are set out above.

Character and appearance

8. The appeal site is located partly within the Kirk Ireton Conservation Area (CA). Originally designated in 1971, the CA encompassed the traditional village core which is formed of traditional stone buildings dating from predominantly the 18th and 19th centuries. These have retained a strong visual integrity owing to construction methods and common use of materials. The CA was extended considerably in 1992 into its current form to include the rural landscape that surrounds the village. In so far as it relates to the appeal, I find the significance of the CA to be primarily associated with its rural setting, including views from the settlement out across an attractive agricultural landscape, and narrow lanes enclosed by hedgerows which provide a 'secretive' approach to the village's traditional core.
9. The main settlement centres along Main Street, a formal linear axis off which narrow, informal lanes including Gorsey Lane lead out into the surrounding countryside. The appeal site comprises a parcel of open, agricultural land which is bordered by a mix of mature hedgerows and trees. There are several timber buildings within the site which are somewhat dilapidated. Given their siting combined with their small scale and extent of existing landscaping, they are not unduly prominent or readily visible from the road. In any case, their agricultural character and appearance is not uncharacteristic of the countryside setting. In approaching the appeal site along Gorsey Lane in the direction of the village, the panorama is principally green, and the overriding character is that of countryside. The verdant and open aspect of the site is an important part of this rural character and positively contributes to the significance of the CA.

10. The appeal development would result in the introduction of substantial built development. Along with the accompanying domestic use of the curtilage and residential paraphernalia including a new vehicular access and area of hardstanding that would ensue, this would result in the undesirable encroachment of development into the countryside, eroding the rural character of the area and the significance of the CA. Moreover, the cumulative scale and massing of the dwelling and garage in the context of the appeal site would read as a visually intrusive and imposing form of development. Whilst the visual effects would be relatively localised and softened by the existing and proposed planting, the abrupt and bulky appearance of the proposal would be readily visible on the approach to the village, particularly as the relocated, engineered access would leave the site more open to views from the lane.
11. In coming to this view, I note that the proposed dwelling and garage would be sited in the eastern part of the site, closest to the main settlement. The proposed building form and courtyard layout would not be wholly discordant, and the design approach would take cues such as the incorporation of a chimney and the pattern of fenestration from the more traditional buildings. Sympathetic external materials, in keeping with the local vernacular would also be used. These factors however would not adequately address the harm arising from the prominent intrusion into the countryside by reasons of its location.
12. In determining the appeal, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, I find that the proposed development would harm the significance of the heritage asset. Given that the harm would be relatively localised, the impact on the CA as a whole would be less than substantial within the meaning of paragraph 205 of the Framework. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
13. The proposal would contribute to the supply of housing in the village. There would be some economic benefits from the construction of the development, support of the local economy and additional Council tax income. In addition to the personal benefits which I shall return to later in my decision, the proposal would also have wider public benefits in so far as it would contribute to the provision of adaptable housing. Nevertheless, given the small scale of the development, the public benefits of the scheme are of no more than limited weight. Consequently, these public benefits would not outweigh the less than substantial harm that the proposal would cause to the significance of the CA, to which I attach great weight.
14. For these reasons, I find that the proposal would have a harmful effect on the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA. It would therefore be contrary to Policies PD1, PD2 and PD5 of the Local Plan together with Policies P1 and P2 of the Kirk Ireton Derbyshire Neighbourhood Plan (2021). Collectively, and amongst other aspects, these policies seek to ensure that all development is of high-quality design that respects the character, identity and context of the Derbyshire Dales and conserves heritage assets in a manner appropriate to their significance. It would also be inconsistent with the Framework's design and heritage objectives.

Protected species and biodiversity

15. Amongst other aspects, Local Plan Policy PD3 seeks to safeguard protected species and provide a net overall gain to biodiversity. In addition to the initial ecological survey work, the revised PEA¹ includes an environmental DNA Great Crested Newt (GCN) survey. The analysed data samples indicated a negative result for the presence of GCN within the nearby pool leading to the conclusion that there is a likely absence of this species at the appeal site. The PEA also demonstrates that a 10% Biodiversity Net Gain is capable of being delivered through a scheme of habitat enhancement and creation.
16. Were I minded to allow the appeal, I am satisfied that suitable conditions could be imposed to safeguard protected species during the construction of the development and ensure the protection, management and enhancement of the biodiversity of the appeal site. Thus, the proposal would not be harmful to protected species or biodiversity in accordance with Policy PD3.

Other Matters

17. The appeal proposal would be within walking distance of the main settlement and would contribute to the mix of housing within the area. It would support the local economy and viability of local services in Kirk Ireton and further afield. It would also bring short-term benefits in terms of construction expenditure and employment. However, one additional household would make little meaningful difference to housing supply. The design concept and initial modelling² indicates that the proposed dwelling would achieve a high level of energy performance. In addition, the scheme would provide additional habitat for biodiversity which would amount to an overall net gain. Whilst mindful of the above, given the small scale of the development, the economic, social, and environmental benefits would be limited.
18. Whilst it may be the case that the siting of the proposed dwelling responds to the pre-application advice provided by the Council, it does not overcome the overriding concerns expressed regarding the countryside location. Even so, pre-application advice is given without prejudice to any future decision and therefore whilst mindful of the appellant's frustrations, this has no bearing on my considerations of the appeal proposal.
19. The site would be located within an area at low risk of flooding and would not affect any listed buildings. Suitable access would be provided, and the living conditions of nearby residents would not be adversely affected. These however are neutral factors and neither weigh in favour nor against the proposal.

Planning Balance and Conclusion

20. It has been put to me by the appellant that the Council cannot demonstrate a 5-year supply of deliverable housing sites, and there is no evidence before me which would indicate otherwise. Where relevant policies are out of date, paragraph 11 of the Framework directs that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework

¹ Preliminary Ecological Appraisal Report, prepared by Elton Ecology dated July 2023

² PassivHaus Report – Initial Modelling – dated 9 February 2023

taken as a whole. In this case, I have identified harm to a designated heritage asset. Therefore, whatever the shortfall in housing land supply, this provides a clear reason for refusing the development. The presumption in favour of sustainable development as set out at paragraph 11d) therefore does not apply.

21. The evidence before me sets out that a member of the family has a physical disability, meaning that the dwelling has been designed to be adaptable and capable of fulfilling any accessibility needs which may arise in the future. Accordingly, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. I have also had regard to the rights conveyed in the Human Rights Act.
22. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that harm to the CA is avoided. Therefore, whilst I acknowledge the personal circumstances of the appellant, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of my aforementioned conclusions on the main issues.
23. For the reasons outlined, the appeal proposal conflicts with the development plan read as a whole and no material considerations including the provisions of the Framework have been shown to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore dismissed.

H Wilkinson

INSPECTOR

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Appeal Decision

Site visit made on 5 June 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/P1045/D/24/3336335

Cedar Lodge, Dark Lane, Ashbourne, Derbyshire DE6 1AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Derek Pettigrew against the decision of Derbyshire Dales District Council.
 - The application Ref is 23/00898/FUL.
 - The development proposed is 'extension to private residence consisting of: external insulation and cladding of existing house; removal of pitched roof and construction of flat roof to existing ancillary room; construction of two-storey flat roof link; construction of two-storey dual pitched roof extension; construction of two single-storey flat roof extensions and construction of single storey detached annexe.'
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development proposed on the character and appearance of the host property and the surrounding area; and the effect of the proposal upon a protected tree.

Reasons

Character and appearance

3. The appeal site relates to a two storey detached dwelling situated on a large plot. The property is set well back from Dark Lane and occupies an elevated position relative to the highway. It is accessed via a long driveway which leads to a large area of hardstanding to the south and east of the dwelling. There are several trees within the site and close to its boundaries, notably including a mature yew tree situated towards the site frontage. As a result, the property is relatively well screened from Dark Lane. The south-eastern boundary of the site adjoins the Ashbourne Conservation Area.
4. The area surrounding the site has a spacious, semi-rural feel characterised by a small number of detached properties set within large gardens and surrounded by mature trees and hedgerows. These attributes contribute positively to the character and appearance of the area and contrast with the more built up, mainly linear forms of development along Belle Vue Road to the north east.
5. The proposal includes a two storey extension to the eastern side of the dwelling, with a new two storey flat roof link connecting this extension to the existing building, and two further flat roof extensions. While the link extension allows the overall form of the existing dwelling to be retained, the combined

footprint of the two storey extension and link would be as large as the existing building. The plans indicate that the two storey extension would extend forward of the existing dwelling, and the apex of the pitched roof would project slightly above the main ridge of the property. It would obscure the eastern elevation of the existing building. Rather than being subordinate to it, the proposed extensions would dominate the building.

6. The development would be partially visible from Dark Lane in gaps between the trees and would become more so given the proposed removal of trees close to the property, which would open up views of the site, including from Mayfield Road within the Conservation Area, with a consequent harmful effect on the character and appearance of the area.
7. The single storey detached annexe would be sited in the garden to the north of the dwelling. Its substantial footprint would include a living room, kitchen and two bedrooms. Due to its bulk and massing, this building would be a dominant feature of the garden. While not prominently sited, it would be seen from the driveway and exacerbate the overall harm to the character of the area.
8. In this case, the appellants consider the principle of subservience to be less important than the need for high quality architecture having regard to the reference to a site's wider setting and location in Policy HC10 of the Derbyshire Dales Local Plan (LP). However, this policy also requires the height, scale, form and design of the extension or outbuilding to be in keeping with the scale and character of the dwelling. The proposal would not meet these requirements.
9. The appellants refer to recent alterations to the neighbouring property to the south, known as "Trees". However, I do not have the details of that scheme or its planning history before me and it has its own specific context. It does not, therefore, provide justification for the appeal proposal which I have considered on its own merits. While I also note the appellants' point that the existing dwelling is of limited architectural merit, this does not alter my findings above. Given the mix of styles and ages of properties in the area, I consider that the contemporary approach in external materials would be appropriate in this instance, but this does not sufficiently mitigate the adverse impact of the proposal, which would arise as a result of its siting and scale.
10. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the host property and the surrounding area. Accordingly, it would conflict with Policies PD1 and HC10 of the LP, which amongst other things, require development to be of high quality design that respects the character, identity and context of the District's townscapes and landscapes.

Protected tree

11. The large yew tree to the south eastern side of the appeal property is close to the site frontage and is visible from Dark Lane and from further afield, including Mayfield Road. It is subject to a tree preservation order and is an impressive specimen which contributes positively to the verdant character of the area.
12. The yew tree is within close proximity of the appeal building, with its branches extending towards it. Due to the substantial size of this tree, it is likely to have an extensive root system which may already be compromised by its proximity

- to the existing building and the areas of hardstanding adjacent to its trunk. As the extension would project further towards this tree and extend significantly within its root protection area, damage to the tree roots cannot be ruled out.
13. While the appellants' arboricultural survey report identifies the need for carefully designed foundations to limit damage to the roots, there is no substantive evidence before me confirming that an appropriate foundation design can be achieved in this instance without unacceptable adverse effects arising to the tree, particularly by way of damage or disturbance to its roots.
 14. Given the proximity to the proposed extension, it is likely that the tree would have a shading effect on the windows to the south eastern elevation of the development, as indicated by the appellants' tree shading plan. Consequently, while I note that the appellants are respectful of the tree, there could be pressure from future occupiers to prune or fell it.
 15. Any harm to the health of the tree could lead to its deterioration or eventual loss, with resulting adverse impacts on the character and appearance of the area. As there is a degree of uncertainty around the effects of the proposal on the protected tree, the use of conditions would not be appropriate in this case.
 16. I conclude that insufficient information has been provided to demonstrate that the proposed development would not cause harm to the protected tree. The proposal therefore conflicts with Policy PD6 of the LP where this seeks to ensure that trees, hedgerows, orchards or woodland of value are retained and integrated within development wherever possible.

Other Matters

17. I note the appellants' contentions that the proposal would improve the energy efficiency of the property, and that the potential alternative of a replacement dwelling rather than an extension would have a significant impact on the carbon footprint of the site. Given the scale of the development proposed, the weight attributable to these matters is limited and is outweighed by the harm I have identified above.
18. Although the appellants are dissatisfied with the Council's handling of the planning application, this is a matter between the parties. I have been concerned only with the planning merits of the case.

Conclusion

19. The proposal does not accord with the development plan as a whole and there are no other considerations that indicate that I should take a different decision other than in accordance with this. Therefore, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR

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Appeal Decision

Site visit made on 5 June 2024

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

Appeal Ref: APP/P1045/D/24/3341969

3 Orchard View, Marston Montgomery, Derbyshire DE6 2HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs M Lewis against the decision of Derbyshire Dales District Council.
 - The application Ref is 23/01226/FUL.
 - The development proposed is installation of dormer windows, rooflight, window to the side of the property and wind turbine vents.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council changed the description of development from that stated on the application form. I consider that the revised description and the description on the application form do not accurately describe the appeal scheme and in the interests of clarity I have adopted an amended description in the heading above.

Main Issue

3. The main issue in this appeal is the effect of the dormer windows on the character and appearance of the existing property and the area in general.
4. The Council have not raised concern with the rooflight, side window or wind turbine vents, from the information before me I do not disagree.

Reasons

5. The site is part of a housing development which was designed to reflect the form and appearance of traditional agricultural buildings. There is a harmony to the properties by virtue of similar characteristics and design features, such as simple, wide, linear, uninterrupted roof-slopes.
6. In this instance the development does not complement the existing architecture of the property or that of neighbouring buildings. Whilst the materials proposed are sympathetic to the existing property, the alterations to the roof are incongruous and at odds with the overall design aesthetics of the area.

7. I find that the proposed development would harm the character and appearance of the existing property and the area in general.
8. There is conflict with Policies PD1 and HC10 of the Adopted Derbyshire Dales Local Plan (2017) (the Local Plan) which seek amongst other things for developments to be high quality, respecting the character of the original dwelling and setting.
9. The reason for refusal contends there would be conflict with Policy S2 of the Local Plan. However, this policy defines the settlement hierarchy and the associated broad approach to new development in each instance. Based on the information before me there is no evidence that the proposed householder development would likely result in harm to the settlement hierarchy which seeks to direct new development towards the most sustainable locations.

Other Matters

10. The Appellant has drawn my attention to allowed appeal decisions¹. The appeal properties are barn conversions, based on the information provided the appeal proposals are not comparable to the proposal before me, one is for a single storey rear extension and the other a Velux roof light. Notwithstanding this each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal.

Conclusion

11. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR

¹ APP/P1045/D/22/3313986 & APP/P1045/Y/21/3269505



Appeals Decision

Site visit made on 6 June 2024

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary

Decision date: 24 June 2024

Appeal Refs: APP/P1045/C/23/3323106 & 3323107

Land South of Yeats Lane, Cromford, Derbyshire

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Martin Towle and Mrs Sanchia Paquita Hunt Towle against an enforcement notice (EN) issued by Derbyshire Dales District Council (the LPA).
 - The enforcement notice, numbered ENF/23/00037, was issued on 19 April 2023.
 - The breach of planning control as alleged in the notice is: engineering works comprising retaining structures, associated changes to land levels and hardstanding.
 - The requirements of the notice are as follows:
Completely remove the unauthorised retaining structures, hardstanding and reinstate the land to its previous form and condition.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on grounds (a), (f) and (g), as set out in section 174(2) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The Appeal is allowed in part on ground (g) only. Otherwise, the appeal is dismissed and the enforcement notice is upheld. See Formal Decision below.

The appeal site and the surrounding area

2. The 0.1ha appeal site is located in the southern part of Cromford and lies within the settlement boundary. It is also within the Cromford Conservation Area (CCA) and the Derwent Valley Mills World Heritage Site (DVMWHS). The land is to the rear (west) of residential properties (Nos 116-138) which front onto Cromford Hill. This historic part of Cromford comprises traditional houses fronting the main road (B5036) with outbuildings to the rear.

3. The land lies outside of any residential curtilage and there is an existing stone 'gabion' retaining wall along its southern boundary. The alleged unauthorised works have been carried out and are distinctly noticeable. The works are visible from the eastern entrance to the site, as well as from the adjacent public footpath to the west. To the north there is the partly treed open countryside, which extends further to the north and west. To the north-east there are more properties along Cromford Hill, with historic burgage-type plots projecting into the land to the north-west.

Background information

4. A pre-application enquiry had been submitted to the LPA on 10 June 2019. This indicated that a new gravel driveway area would be formed above an existing row of 'gabions', supported by a new row of stone-filled 'gabions' approximately 1m high. The extent of the driveway area was set out and it was indicated that there was a future plan to build a timber-framed storage shed/garage. A request was made as to whether planning permission would be needed for the works.

5. The LPA responded on 20 June 2019 and advised that, because the land lay outside of the curtilage of the dwelling house, the works as proposed could not benefit from permitted development rights. It was confirmed that, although the *'engineering work to provide a further retaining wall would be deemed 'de minimis' (of little significance), the works you propose to provide the access and the garage will require planning permission'*.

6. Works commenced on the retaining wall element outlined in the pre-application details on the basis that they would be *'de minimis'*. On 7 March 2023, following an enquiry by others, a Council Enforcement Officer was informed by a contractor that the wall was being constructed to a height of 1m in accordance with the pre-application agreed details. However, further visits established that the wall being built exceeded 1m in height and the LPA considered that it was becoming a *'significant engineering operation for land retention'*. It was confirmed that it would require planning permission, as it had gone beyond a stage whereby it could be considered to be *'de-minimis'*.

7. Considering the extent of the works carried out and the location, within both the CCA and the DVMWHS, the LPA considered it necessary that the works be stopped. A temporary *'Stop Notice'* was issued on 17 March 2023. The LPA confirmed that if any works were carried out which did not accord with pre-application details, in terms of the height and alignment of the wall, then it was unlikely that planning permission would be granted. It was also stressed that there was a risk of enforcement action being taken against any works which had not been authorised during the course of the pre-application process.

8. There followed e-mail exchanges between the LPA and the appellant. A suggestion was put forward by the appellant whereby the line of *'gabions'* generally remained and were still considered to be *'de-minimis'*. It was also stated that, if necessary, it could be *'widened/depth extended'* to achieve *'a lower height of 1m to 1.5m'*. It was suggested that the upper row of *'gabions'* be removed and the lower run topped by either wooden sleepers or a lower 0.5m run of *'gabions'* if required? It was indicated that this could be backfilled with earth to create plant beds for vegetables, herbs & flowers. No formal application was made.

9. The LPA did not respond in detail to the latest suggested amendments and was clearly concerned with the development *'continuing in a manner which had not been approved'*. As referred to above, a temporary *'Stop Notice'* had been served and this expired on 15 April 2023. On 12 April 2023, Officers determined it expedient to serve an enforcement notice given the extent of the unauthorised works within the CCA and the DVMWHS. I now turn to the appeal against the enforcement notice on the grounds pleaded.

The appeal on ground (a)

Introduction

10. The retaining wall as constructed is currently 23.9m in length, 2m in height at its highest point 1m in height at its lowest point. There is a short section which is 1.5m in height. On behalf of the appellant, it is indicated that an improvement is offered under this Ground (a) appeal, as well as an alternative proposal under Ground (f).

11. The improvement offered under Ground (a) *'proposes the retaining wall to be kept where it is currently, with the 2m and 1.5m high sections being reduced to 3m in length each, with the remaining length of the wall being 1m high for 17.9m'*. The alternative solution offered under Ground (f) is to move the retaining wall further south to the original position that was submitted as part of the pre-application enquiry and reduce the height to 1m.

12. In dealing with this offered improvement and alternative solution, I have had regard to the findings in the case of *Bhandal & Ors v Secretary of State for Housing, Communities & Local Government & Anor* [2020] EWHC 2724 (Admin) (2020). I acknowledge that the case confirms that a decision-maker cannot simply 'dismiss a Ground (a) appeal on the mere fact that any new work is required and that they do have the power to grant planning permission for alternative developments'. However, it was also held that whether an alternative scheme forms 'part of the matters' under section 177(1)(a) is a matter of planning judgement.

13. In reaching my conclusion on this ground of appeal and because the site lies within the CCA I have paid special attention to the requirements of Section 72 of The Planning (Listed Building and Conservation Areas) Act (PLBCAA).

14. I have also taken into account all of the relevant policies set out in the National Planning Policy Framework (NPPF) and particularly section 16 (Conserving and enhancing the historic environment). The site also lies within the DVMWHS and the NPPF indicates that heritage assets such as these, which are of the highest significance, are internationally recognised to be of Outstanding Universal Value (OUV). It is stated that these assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

Relevant Policy

15. The development plan is the adopted Derbyshire Dales Local Plan 2017 (DDLPL). The most relevant policies are S1 (Sustainable Development Principles); S3 (Development within Defined Settlement Boundaries); PD1 (Design and Place Making); PD2 (Protecting the Historic Environment) and PD5 (Landscape Character).

The Main Issue

16. The main issue is the effect that the unauthorised works have had on the character and appearance of this part of the CCA Area and the OUV of the DVMWHS.

The gist of the case for the appellant

17. It is stressed that the site is located within the development boundary; on land that is historically used for ancillary domestic purposes and that the Council has accepted that a retaining wall is acceptable in principle.

18. It is contended that the retaining wall, as built, 'does not materially harm the OUV of the DVMWHS or the significance of the CCA'. It is confirmed that the retaining wall is constructed using steel wire gabion baskets which are filled with limestone. It is stressed that these are the same type of baskets that have been used for a retaining wall as previously built on the site and that limestone retaining walls are a feature of the immediate and surrounding area.

19. Therefore, it is argued that the use of the materials for this retaining wall are suitable for the character of the area. It is accepted that, although the retaining wall is bright in colour, this will soften over time as evidenced by the existing retaining wall on the site. Although the retaining wall is visible to the public, it is not considered to be an 'unruly sight', and the works are seen in the context of small parcels of ancillary domesticated land to the rear of existing houses. The area is characterised by outbuildings, yards and stone retaining walls and it is considered that, once the colour has softened the wall and its surroundings, it will not be out of character.

20. The 'gabion' baskets, as existing, are considered not to have a detrimental effect on the character of the landscape or the DVMWHS and CCA. The appellant accepts that retaining wall has not been constructed to completion and that this may change. The alternative proposal that is put forward will, by virtue of its reduced height, have a lesser visual impact. It is contended that the proposal has been sensitively designed, and

that it complies and is fully in accordance with Policies PD1, PD2 & PD3 of the Local Plan, as shown in plan No.1712-103.

21. Again, it is stressed that a retaining wall is acceptable in principle in accordance with Policies S1 and S3 of the Local Plan due to it allowing for *'the efficient and effective use of land and being compatible with the character of the site and adjacent development'*.

The gist of the case for the Council

22. The Council stresses that it had not raised the 'principle' of the retaining wall as a cause for concern because, as detailed in the pre-application submission, it was deemed to be *'de minimis'* and similar to an existing wall between the site and the residential properties. However, it is confirmed that it now has serious concerns about the works which have been undertaken, which it considers do not benefit from being permitted development, nor from being *'de minimis'*.

23. The Council does not agree with the appellant that the retaining wall does not materially harm the OUV of the DVMWHS or the significance of the CCA. It is considered that the appellant has failed to analyse the significance of the site within the CCA and its impact on the OUV of the DVMWHS, and to appraise the development in this context.

24. The Council stresses that *'the interrelationship of the rural landscape with the introduction of the historic industrial installations, and their dependent housing settlements (including their associated outbuildings and structures), forms a relict landscape which is an important historic attribute of the DVMWHS, and which contributes significantly to its OUV'*. It is also stressed that this historic relationship forms *'a fundamental part of the distinctive character and appearance of the CCA'*.

25. Reference is made to the CCA appraisal, which focuses specifically on the character and appearance of this part of Cromford. It refers to the west side of 'The Hill' being *'constrained by a sheer limestone bluff, which defines the extent of the settlement, and beyond that the steep climb up to the hill'*. It goes on to state that *'the allotments behind the properties nos. 86-110 are literally squeezed into this space in tiers of retained stone-walled 'gardens' and that, 'on the west side of The Hill, the paths between and behind the properties still survive, lined with limestone drystone walls, and enclosing paddocks and allotments'*.

26. It is further stressed that the form of some C18 allotments remain and can be recognized from the 1841 Tithe Map; that most of the *'Arkwright phase outbuildings & animal shelters survive'* and that the 'town pinfold' (an animal holding pen) is still preserved as a walled enclosure behind No 114 'The Hill'.

27. It is contended that a retaining structure of this height and alignment, and the re-engineered landscape it has created, has resulted in encroachment and harm to this historic landscape. It is considered that it presents *'a very visible and physical change to both the character and appearance of the area that it erodes and diminishes this identified attribute of the DVMWHS and its OUV'*.

28. It is accepted that over time the structure will weather and the colour will be less strident. However, it is also stressed that although the 'gabion' baskets are filled with limestone, this type of construction is not considered to be reflective of traditional limestone retaining walls to be found in this part of the CCA and the DVMWHS and that the works have resulted in an unnecessary and harmful development.

29. With regard to the suggested amendments and the lowering of the wall, it is considered that this raises concerns about how the land may have to be re-engineered

and re-modelled in order to be retained by a lowered wall. It is considered that such works would be likely to constitute a significant re-engineering/re-modelling of the land which would erode and diminish the existing character, appearance and significance of the land.

My assessment

30. Having seen the retaining wall and the area of hardstanding, I share the Council's concerns about the effect that the works, as carried out, have had on the character and appearance of the CCA and the OUV of the DVMWHS.

31. In my view the works have resulted in a most obtrusive and visually harmful development. This is in an area which is not only a significant conservation area (the CCA), but one which the NPPF indicates is of the highest significance and which is internationally recognised to be of Outstanding Universal Value (the DVMWHS). I do not consider that these two irreplaceable heritage assets can be said to have been 'conserved' in a manner appropriate to their significance. The significance of both of these heritage assets are set out in the Council's appeal submissions and, in my view, full consideration of the impact of the works as carried out has not been considered.

32. Whilst acknowledging that a simple limestone retaining wall (1m in height), as seemingly agreed to be 'de minimis', might have been acceptable in visual terms, what has been constructed is an engineering operation which is completely out of scale to what was agreed at the pre-application stage. Both the scale of the operation and the alignment of the retaining structure do not comply with what was initially proposed. Combined with the hardstanding area the works have resulted in an unacceptable 'scar' on the side of the his historic land.

33. The use of the steel 'gabions', combined with their fluctuating height, has exacerbated the harsh and alien appearance of this inappropriately engineered retaining structure. In my view, and irrespective of the fact that weathering will improve its colour, I do not consider that planning permission ought to be granted for the retention of the works as carried out. The works are not perceived as a traditional limestone wall, but as an inappropriate and visually harmful engineered structure.

34. I do not consider that the improvement '*offered under Ground (a)*' will overcome the harm to the CCA and the DVMWHS. Whilst its alignment might be acceptable it would still involve heights in excess of the pre-application height. This would result in *the 2m and 1.5m high sections being reduced to 3m in length each, with the remaining length of the wall being 1m high for 17.9m*'. However, I consider that it would still be visually harmful for the reasons outlined above.

35. In conclusion on this ground of appeal I find that the works are contrary to policies S1; S3; PD1; PD2 and PD5 of the DDLP when considered as a whole and that there are no matters to indicate that a decision should be made other than in accordance with the development plan. It follows that I also find the works as carried out to be contrary to the policies within Section 16 of the NPPF. The appeal on ground (a) must, therefore fail and the deemed planning application is refused.

The appeal on ground (f)

36. An appeal on ground (f) is made on the basis that lesser steps would overcome the harm caused. In putting forward an alternative solution '*to move the retaining wall further south to the original position that was submitted as part of the pre-application enquiry and reduce the height to 1m*', it is inferred that these '*lesser steps*' would overcome the harm to amenity and remedy the breach of planning control.

37. The breach of planning control as alleged in the notice is: '*engineering works comprising retaining structures, associated changes to land levels and hardstanding*'.

Thus, it involves more than just the position of the retaining wall and a reduction in its height. The EN refers to the development as carried out (the whole of it, not just the wall) being harmful to the character and appearance of both the CCA and the DVMWHS. The reason it was issued was to remedy the injury to amenity caused by the breach of planning control.

38. Normally in a ground (f) appeal a lesser step is usually put forward in order to show that it could either remedy the breach and/or remedy the injury to amenity. If it is considered by the decision-maker that such a lesser step would serve such a purpose then the requirements of the EN could be varied and this would constitute a success on ground (f).

39. In this case the 'lesser step' is simply related to moving the retaining wall to a previously agreed line and reducing it in height. It would not resolve all of the concerns relating to the change to land levels, the hardstanding as laid and the reasons why the EN was issued in the first place.

40. Thus, it would not overcome the effect that the unauthorised works, as a whole, have had on the CCA and the DVMWHS. It is the combination of the retaining wall, as built, and the other works to facilitate this which have resulted in the identified harm caused. I do not consider, therefore, that the requirements can be reasonably or justifiably varied on ground (f).

41. I accept that the re-positioning and reduction in height of the wall to the position agreed under the pre-application application would be acceptable to the LPA. However, I do not consider that this could be achieved by varying the requirements. To vary the requirements as suggested would only deal with one element of what is being enforced against and to re-write the whole of the requirements to deal with the other points could not, in my view, be done in a precise and unambiguous way. The appeal also fails therefore on ground (f).

The appeal on ground (g)

42. I have referred above to the fact that the proposal to re-align the retaining wall, and reduce it to the agreed height, to complete it in accordance with the pre-application 'approval' would be acceptable to the LPA. Having seen the site I agree that this is the case. The compliance period in the EN is 6 months.

43. Considering that there are proposals for the whole of the appeal site and that the appellant is in contact with the LPA with regard to the works as proposed, I consider that a period of 6 months falls short of what should reasonably be allowed.

44. Having considered all of the submissions by the parties I consider that the compliance period should be extended to 12 months. This will give the appellant more time to agree a final scheme with the LPA for the whole of the site and which would include a retaining wall in accordance with the pre-application details.

45. The appeal succeeds, therefore, to this limited degree on ground (g) only.

Other Matters

46. In reaching my conclusions on the grounds of appeal I have taken into account all of the submissions made by the appellant and the Council. These include the full planning history including the pre-application details; the detailed statements and appendices; the CCA Appraisal; details relating to the DVMWHS; the photographic evidence and the final comments/rebuttals.

47. However, none of these carries sufficient weight to alter any of my conclusions on the grounds pleaded and nor is any other matter of such significance so as to change my decision.

Formal Decision

48. The Appeal is allowed to a limited degree on ground (g) only. I direct that the enforcement notice be varied in Part 5 (WHAT YOU ARE REQUIRED TO DO - Time for Compliance) by deleting the figure '6' before the word 'months' and by inserting therefor the figure '12'.

49. Otherwise the Appeal is dismissed, and the enforcement notice is upheld as varied. Planning Permission is refused for the application deemed to have been made under Section 177(5) of the Act.

Anthony J Wharton

Inspector

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BACKGROUND PAPERS

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

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

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

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

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