



Planning Committee 12th November 2024

APPLICATION NUMBER		24/00479/FUL	
SITE ADDRESS:		Warloy House, Whitworth Road Darley Dale, Derbyshire DE4 2HJ	
DESCRIPTION OF DEVELOPMENT		Erection of 2 no. dwellings	
CASE OFFICER	Myles Joyce	APPLICANT	Chevin Homes
PARISH/TOWN	Wirksworth	AGENT	N/A
WARD MEMBER(S)	Cllrs Franks and Shelley	DETERMINATION TARGET	17.11.24
REASON FOR DETERMINATION BY COMMITTEE	Member Call-in	REASON FOR SITE VISIT (IF APPLICABLE)	N/A

MATERIAL PLANNING ISSUES

- Policy Context
- Compatibility of the scheme with the aims of National Policy in relation to locational choices
- Impact on Landscape Character and Appearance
- Trees, Tree protection and planting
- Impact on Ecology
- Biodiversity Net Gain
- Floor Risk and Drainage
- Highway Safety / Public Rights of Way

RECOMMENDATION

RECOMMENDATION: Members are recommended to APPROVE the application subject to conditions as set out below with delegated authority to the Director of Place and Economy to approve any amendments to those conditions as deemed necessary;

1.0 THE SITE AND SURROUNDINGS

- 1.1 The site is located within the town of Darley Dale and forms part of the domestic garden of the existing house known as Warloy and is approximately 800 square metres in area. The site gently slopes from north east to south west towards Sir Joseph's Lane and is situated between numbers 10 and 11. Opposite the site there is a row of detached and semi-detached dwellings in a linear form. These dwellings vary in height and design.
- 1.2 The boundary screening is significant with mature vegetation and trees with a wall and natural screening on its southern boundary. The site lies within the development boundary of Darley Dale and does not have any other planning constraints, including not being in a Conservation Area nor a Listed Building.

2.0 DETAILS OF THE APPLICATION

- 2.1 It is proposed to erect two detached dwellinghouses in the rear garden of the existing dwelling. Plot 1 is a two bedroom roughly shaped bungalow with a double garage adjoining to the rear and two car parking spaces with private rear garden area to the rear of the site. Plot 2 is a three bedroom dwelling, also a bungalow with a single garage and two car parking spaces in addition and also private rear garden space to the rear of the proposed house.
- 2.2 Both properties will have vehicular access from Sir Joseph's Lane and this will necessitate removal of some of the boundary details currently in existence. The plots occupy a footprint in the region of 90-100 square metres and are both proposed to be hipped roof and access from the south which officers consider to be the principal elevation.

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
 - PD1: Design and Place Making
 - PD3: Biodiversity and the Natural Environment
 - PD4: Green Infrastructure
 - PD6: Trees, Hedgerows and Woodlands
 - PD7: Climate Change
 - PD8: Flood Risk Management and Water Quality
 - HC1: Location of Housing Development
 - HC19: Accessibility and Transport
 - HC21: Car Parking Standards

- 3.2 National Planning Policy Framework 2023

4.0 RELEVANT PLANNING HISTORY:

- 4.1 There is no relevant planning history.

5.0 CONSULTATION RESPONSES

Consultee Name	Position	Date	Comments
Darley Dale Town Council	No objection	17.7.24	Objection in terms of layout and density, highway issues such as loss of street parking and road safety, local drainage capacity and lack of local consultation of affected neighbours
Local Highway Authority (Derbyshire County Council)	No objection	17.7.24	No objections in principle and subject to pre-occupation conditions requiring implementation of car parking access etc. and visibility splays to specified standards.
Consultee Name	Position	Date	Comments
County Lead Local Flood Authority (LLFA)	No response		None
County Archaeologist	No objection	25.6.24	The proposed development seems to sit over infill of the earlier Stancliffe Quarry, which had been worked out prior to the first edition OS (1880), though said map notes the discovery of human remains on the site along with ceramic urns in 1863. This being said however the proposed development area appears to have been previously worked ground
Derbyshire Wildlife Trust	Holding objection for additional information removed once additional information submitted.	9.8.24 26.9.24	Further information required regarding Biodiversity New Gain due to loss of garden and consequent BNG on site. Conditions attached relating to external lighting, nesting birds, protected species, landscape management plan and schedule and species enhancement plan. Further information with regard to a biodiversity assessment and biodiversity net gain plan was submitted by the applicants. The DWT advised that from a determination point of view, the information submitted is sufficient and the gain condition will need to be discharged via a finalised gain plan which confirms the habitat bank that will be used. Proof of payment / agreement

			is normally provided by the bank.
Consultee Name	Position	Date	Comments
DDDC Tree and Landscape Officer	No objection	15.7.24	Subject to condition implementing recommendations of aboricultural impact assessment submitted in support of this planning applications (including tree protection measures)
DDDC Environmental Health Officer	No objection	24.7.24	Subject to conditions controlling hours of construction and requiring the submission of a phase 1 one contaminated land assessment, to consider likelihood of high lead (Pb) levels or other substances in the soil and any recommendation of this assessment be implemented

5.1 In summary officers consider that the biodiversity et gain requirements by not being able to be delivered on site but off-site needs to be subject to a legal agreement to allow for monitoring and management of this over time as required by the Environment Act 2021. With regard to all other matters, statutory consultees have indicated that subject to suitably owed conditions that the proposed development is acceptable.

6.0 REPRESENTATIONS RECEIVED

6.1 Five representations have been received objecting with regard to overdevelopment/overcrowding of the site and loss of privacy through overlooking form the new dwellings (of no. 11)

6.2 With regard to procedural matters there was a criticism that consultation was not undertaken of 11 Sir Josephs Lane and the Site Notice was not in a prominent location.

6.3 In addition a number of questions were posed which were as follows:

- Will the current thigh hedge remain throughout. If not how will the site be screened?
- Will we be assured that the unadopted road will not be used by construction vehicles nor by the completed development?
- How will the impact on dust and noise be mitigated?
- How will the completed property be screened from Sir Josephs Lane?

6.4 Officers would argue that it is recommended to attach conditions requiring details of the degree of screening including boundary treatment, a construction management plan and other matters to mitigate any potential harm arising from the proposed development. The access to and from the site will be as per the approved plans and conditioned and subject to a legal agreement to ensure compliance with these details. The matters will be discussed in further detail in the main body of this report.

7.0 OFFICER APPRAISAL

7.1 The following material planning issues are relevant to this application:

Policy Context

- Principle of Development
- Design and Impact on Character and Appearance
- Impact on Residential Amenity and Living Standards of Future Occupiers
- Impact on Landscaping, Trees and Tree Planting
- Impact on Ecology
- Flood Risk and Drainage
- Highway Safety, Access and Car Parking
- Planning Balance and Conclusions

Principle of development

- 7.1 Turning to the Local Plan, Policy S1 require all developments to make a positive contribution towards the achievement of sustainable development. Policy S3 supports development within the defined settlement boundaries where scale density layout and design is compatible with the character appearance design and amenity of the settlement as well as surface access onto the highway network which can accommodate the said development.
- 7.2 The proposal is located within the settlement boundary of Matlock and the proposed housing development is in accordance with Policy HC1. The proposal would provide an additional two units of housing, one family sized and as such make a modest contribution to the borough's housing land supply as a windfall site. Accordingly, subject to all other relevant planning policy and guidance and other material planning considerations the scheme is acceptable in principle.

Design Layout and Impact on Character and Appearance of the Area

- 7.3 The proposal are detached bungalows facing Sir Josephs Lane and would provide garaging and additional off street car parking to accommodate their future occupiers. The single storey nature of the dwellings would mean that whilst the land slopes away to the north they would sit relatively low in the landscape and with significant screening would not be obtrusive.
- 7.4 Limited details are given in relation to materials although the application form does mention use of reconstituted stones, plain grey tiles and plain casement windows. Whilst these sound acceptable to officers, conditions requiring full details of materials to be submitted for approval will be attached to this recommendation.
- 7.5 The proposed dwellings would of a scale which compatible with the surrounding areas and officers consider that subject to further details required by condition the details submitted are acceptable in terms of Policy PD1 of the adopted Local Plan.

Impact on Residential Amenity

- 7.6 The site is situated within an established residential location and would make use of the relatively large curtilage of the site currently in use as part of a rear garden to provide an additional two dwellings. The surrounding development pattern is varied and relatively low density with mostly detached but some semi-detached houses of various forms and character.

- 7.7 The two proposed dwellings would most impact on the adjoining properties at either location. Plot 1 is relatively close at only 4 to 6 metres away from its nearest neighbour no. 10 to the south-east and given the single storey of both properties nature would not result in any overshadowing, loss of outlook or exaggerated sense of enclosure. No habitable facing windows are proposed for plot 1 and as such there is considered to be no impact in terms of loss of privacy and overlooking etc. would not materially adverse on the existing8 occupiers of no. 11. Conversely, impacts of the existing dwelling at no. 10 would for similar reasons of distance and juxtaposition, not have a materially adverse impact on the residential amenity of plot 1.
- 7.8 The two proposed dwellings would most impact on the adjoining properties at either location. Plot 2 is approximately 6 to 8 metres away from its nearest neighbour no. 11 to the north-west and given its single storey nature would not result in any overshadowing, loss of outlook or exaggerated sense of enclosure proposes habitable facing windows onto that site for the proposed bedroom and master bedroom. Officers consider that as this is not directly looking onto the existing house and as it is single storey any impact in terms of loss of privacy and overlooking etc would not materially adverse on the existing occupiers of no. 11. Conversely, impacts of the existing dwelling at no. 11 would for similar reasons of distance and juxtaposition, not have a materially adverse impact on the residential amenity of plot 2.

Living Conditions of Future Occupiers

- 7.9 Both plots 1 and 2 provide dwellings which will enjoy good internal circulation, access to natural light and ventilation and a significant degree of acceptable internal floorspace and area for informal storage. It is considered that the dwellings themselves therefore will provide a good standard of living conditions for their future occupiers. The proposed rear garden areas whilst relatively shallow to back onto the existing rear garden of the house and with the relative width of the plots provide between 140 and 160 square metres of private garden space to each dwelling. This is substantial and satisfactory for the proposed dwellings and as such overall the private amenity space will further enhance the living conditions of future resident without impinging materially on these of the occupiers of the existing dwellings as such both dwellings are considered to be in compliance with Policy PD1 of the Derbyshire Dales Local Plan.

Landscaping Trees and Tree Planting

- 7.10 The sites benefits from significant natural screening on its side and front boundaries in what is currently a large rear garden. An Arboricultural Impact Assessment (AIA)and method statement was submitted by AA Tree surgeons in support of the application and contains a number of recommendations with regard to the trees to fell, trees to retain and tree protection measures during construction. The landscape raises to the north north-west and it is recommended that a condition requiring both works to be carried out in accordance with the AIA and further conditions relating to details being submitted to require landscaping and boundary treatments for approval and then to be implemented in accordance with these approved details would be sufficient to overcome any lack of information and harm arising as a result of this development and as such would be conditions compliant with the six tests set out in the NPG.
- 7.11 The DDDC Tree officer notes the AIAI provided and recommends a condition for development to be carried out in accordance with its recommendations. Officer consider that subject to the above requirements the proposal is in accordance with Policies TP5 and TP6 of the adopted Local Plan.

Impact on Ecology

- 7.12 The applicants appointed Eyebright Ecology Ltd. to undertake a Preliminary Ecological Assessment (PEA), which was completed in March 2024. This had various recommendations including providing built in bat boxes to the new dwellings, protecting hedgehogs and providing hedgehog highways to provide access and agrees within the boundary fence, avoiding tree removal between March to August and providing biodiversity net gain through planting some new fruit trees within the new gardens, or the garden of the existing Warloy House and where possible planting native hedges along boundaries rather than fencing would provide further biodiversity benefits for the site
- 7.13 It is noted that no statutory or non-statutory sites lie within the application site or immediately adjacent to. The site lies within the Impact Risk Zone (IRZ) for Clough Woods and Eastern Peak District Moors Sites of Special Scientific Interest (SSSI). However, the current proposals do not fall within any of the identified risk categories to trigger consultation with Natural England. Negative Impacts to Designated Sites
- 7.14 The Derbyshire Wildlife Trust concurs with the above and has requested standard conditions in relation to species enhancement, external lighting and landscape management.

Biodiversity Net Gain

- 7.15 The baseline habitats pertain to 0.08ha of vegetated garden and 0.01ha of urban trees. The vegetated garden and urban tree will be cleared to facilitate approximately 0.06ha of developed land sealed surface and 0.02ha of vegetated garden. The proposal results in a biodiversity loss (-85.48%) which is not fully mitigated by on-site measures. There is no coherent proposal for off-site compensation and neither has it been demonstrated that an appropriate local site for offsite compensation will come forward. The development is therefore contrary to the requirements of the Environment Act 2021, the NPPF 2023 and Policy PD3 of the Derbyshire Dales Local Plan.
- 7.16 The proposal would facilitate the development of two dwellings in an exiting large garden and this would lead to a significant loss of existing biodiversity, calculated at over 80%. It is accepted that the required 10% BNG cannot be achieved on site and therefore an off site scheme for BNG must be submitted. The applicants have done so and the DWT are satisfied that the information is sufficient.
- 7.17 Further information with regard to a biodiversity assessment and biodiversity net gain plan was submitted by the applicants. The DWT advised that from a determination point of view, the information submitted is sufficient and the gain condition will need to be discharged via a finalised gain plan which confirms the habitat bank that will be used. Proof of payment / agreement is normally provided by the bank.
- 7.18 The off-site provision via a habitat bank and need to monitor and manage ongoing BNG is considered acceptable and the DWT has no objections. A pre-commencement condition will be attached to provide some control over BNG off site on an ongoing basis as the BNG plan post decision will be required to be submitted and discharged by the Local Planning Authority. . With such a safeguard in place officers consider that the development is in accordance with Policy PD3 of the adopted Local Plan

Highway Safety / Public Rights of Way

- 7.19 The new dwellings proposed will access from a new created access off Sir Joseph's Lane adjacent to one another and this offer a straightforward access and agree onto the site and its garages and off street car parking spaces. With two off street car parkins spaces each place a single and double garage respectively, both units provide sufficient car parking standards and access to the site provided visibility splays are implemented as set out be the County Highway Authority and internal access and car parking arrangements are

implemented in relation to the details on the site plan. The County Highway Authority subject to these conditions has no objection and there are no issues arising with regard to highway capacity. As such it is considered that the proposal accords with Policies HC19 and HC21 of the adopted Local Plan.

Flood Risk and Drainage Management

- 7.20 The site lies within Flood Risk Zone 1 and therefore is not situated within an area at risk of flooding. In addition as the proposal is for a site well below the 1 hectare threshold no Flood Risk Assessment is required. Accordingly, flood risk is not seen as an issue for this proposal
- 7.21 It is proposed to dispose of surface water drainage via the existing sewer. However, officers note that there is no information regarding foul water drainage disposal. Accordingly, it is considered appropriate to attach a relevant conditions, requiring the submission of foul and surface water detail for approval to the LPA which shall be implemented in accordance with said approval. Subject to the above officers consider that the development is in accordance with Policy PD8 of the adopted Local Plan.

Other Matters

- 7.22 There is evidence of the site in use as a former quarry and as such the Council's Environmental Health Service requires a contaminated land condition to be attached, a request that officer consider to be reasonable and satisfying the six tests and in accordance with Policy PD9 of the adopted Local Plan.
- 7.23 The requirement to impose hours of construction for the works are, given the proximity of existing dwellings in the immediate surrounding area reasonable and as such will be conditioned to standard hours of construction.
- 7.24 Whilst no details of refuse storage and location are provided, officer consider that this can be conditioned as a pre-occupation condition. With regard to cycle storage such provision can be accommodated easily within the garages or dwellings proper.
- 7.25 Finally, the removal of PD rights with regard to Classes A-F of Part 1 of the GPDO are considered necessary given the scale of the development and the site area to lever more planning control over any future developments on site.

The Planning Balance

- 7.26 The proposed development will provide two additional dwellings, one family sized within a tier 2 settlement within a borough which cannot demonstrate a five year housing land supply. As such the social and economic benefits through construction and living occupiers spend and through additional population within the area are considered to be positive. Environmentally, some loss of natural vegetation especially on the southern boundary is required to facilitate this scheme. However the scheme will be conditioned to control this and required to provide new planting as well as a S106 agreement to ensure off-site bio diversity net gain (BNG).
- 7.27 Accordingly, officers consider that the net benefits will be slightly social, environmental and economic and as such the proposal will demonstrate sustainable development of the site. Accordingly, on balance officer consider that the scheme will make a positive contribution to sustainable development and s such subject to conditions it is recommended planning permission be granted.

8.0 RECOMMENDATION

That planning permission be granted 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 permitted shall be carried out in accordance with the following plans and documents received on 3rd June 2024:

- - Proposed Site Layout
- - Proposed Site Plan and Location Plan
- - Plot 1 Proposed Plans
- - Tree Survey Schedule
- - Tree Survey and Protection Plan
- - Arboricultural Impact Assessment (AIA)
- - Preliminary Ecology Appraisal (PEA)
- - Biodiversity Impact Assessment
- - Biodiversity Net Gain Plan
- - Planning Application Form

Reason: For the avoidance of doubt.

3. No development including site clearance shall commence on site until a Construction Method Statement including the details contained within the has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v. wheel washing facilities;
 - vi. measures to control the emission of dust and dirt during construction;
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason:

In the interests of highway safety and residential amenity in accordance with Adopted Derbyshire Dales Local Plan Policy PD1 and HC19

4. No construction works shall be carried out except between the following times:

- Monday to Friday 0800-1800
- Saturday: 0900 to 1300

And not at all on Sundays, Bank Holidays or Public Holidays

Reason:

To preserve the amenities of the surrounding area in accordance with Adopted Derbyshire Dales Local Plan Policy PD1.

5. That the development hereby permitted shall be undertaken in complete accordance with the recommendations of the Biodiversity Enhancement Strategy received on 3rd June 2024

Reason: To ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policy PD3

6. That the development hereby permitted shall be undertaken in complete accordance with the recommendations of the Biodiversity Enhancement Strategy received on 3rd June 2024

Reason: To protect retained trees during the development phase in the interests of safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policies PD3, 5 and PD6

7. That the development hereby permitted shall be undertaken in complete accordance with the recommendations of the Arboricultural Impact Assessment and associated Method Statements received on 3rd June 2024. Particular attention shall be paid to:

- Temporary tree protection fencing shall be erected according to the approved specification (or as specified by British Standard 5837:2012) and positioned such that 100% of the Root Protection Area (as defined by British Standard 5837:2012) of every retained tree on, and adjoining, the site is enclosed by the fencing within construction exclusion zones.

Unless approved in writing in advance by the LPA, this fencing will remain in place and intact until all development works at the site have been completed and all equipment, plant, machinery, surplus materials and waste have been removed from the site.

Furthermore, unless agreed in writing in advance by the LPA there shall be:

- a. no access to the fenced areas for pedestrians/plant/vehicles;
- b. no waste/equipment/materials/consumables/spoil storage in the fenced areas;
- c. no fires in the fenced areas or within 10m of them;
- d. no fuel, oil, cement, concrete, mortar or washings shall be allowed to flow into the fenced areas.

Reason:

To protect retained trees during the development phase in the interests of safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policies PD3, 5 and PD6

8. No tree, scrub or hedgerow clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

9. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features.

Reason:

To protect retained trees during the development phase in the interests of safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policies PD3, 5 and PD6

10. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Topsoil mounds shall be checked for badger activity prior to removal or re-use. An ecologist shall be contacted if any evidence of badger activity is found within the application area during development.

Reason:

To protect retained trees during the development phase in the interests of safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policies PD3, 5 and PD6

11. Prior to the commencement of development a landscape plan and management schedule (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plans shall be implemented in complete accordance with the approved details unless otherwise agreed in writing.

Reason:

To protect retained trees during the development phase in the interests of safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policies PD3, 5 and PD6

13. Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority, based off the recommendations made within the Preliminary Ecological Appraisal (Eyebright Ecology, March 2024). Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to the following):

- 4 x Integrated Swift Bricks
- 2 x Integrated Bat Boxes
- 4 x Universal nest boxes erected onto mature trees.
- Fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

Reason:

To protect retained trees during the development phase in the interests of safety, stability and health of the trees and to ensure continuity of their contribution to visual amenity, wildlife and biodiversity benefits in accordance with Adopted Derbyshire Dales Local Plan Policies PD3, 5 and PD6

14. The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on the application drawings.

Reason:

To ensure proper planning through the conformity with submitted details.

15. The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the accesses to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, to the extremities of the site frontage abutting Sir Josephs Lane in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

Reason:

In the interests of highway safety.

16. A scheme for foul and surface water drainage which shall include a timetable for the completion of the works shall be submitted to and approved in writing by the Local Planning Authority before any above ground works commence. The scheme shall thereafter be completed in accordance with the approved details.

Reason:

To ensure proper drainage of the site in accordance with Policy PD8 of the adopted Derbyshire Dales adopted Local Plan 2017

17. Prior to the commencement of development, a Phase 1 contaminated land assessment to consider likelihood of high lead (Pb) levels or other substances in the soil shall be submitted to and approved by the local planning authority. Any recommendations from approved assessment shall be implemented prior to the occupation of the site.

Reason:

To prevent pollution of the water environment in accordance with policy PD9 of the adopted Derbyshire Dales adopted Local Plan 2017

18. Notwithstanding the provisions of the Town and country Planning (General Permitted Development) (England) Order 2015 or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further plant or machinery shall be placed or erected on the site without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason:

To maintain an acceptable degree of planning control and safeguard the amenity of occupiers of neighbouring properties in accordance with Policy PD1 of the adopted Derbyshire Dales adopted Local Plan 2017.

19. Prior to the occupation of the dwellings hereby approved, details of the location and siting of refuse storage shall be submitted to and approved by the local planning authority. The approved details shall be implemented in accordance with the approved details.

Reason:

To safeguard the amenity of occupiers of neighbouring properties in accordance with Policy PD1 of the adopted Derbyshire Dales adopted Local Plan 2017.

20. Development may not be begun unless:

- (a) a biodiversity gain plan has been submitted to the planning authority; and
- (b) The planning authority has approved the plan.

Reason:

In the interest of promoting biodiversity net gain in accordance with the Environment Act 2021 and Policy PD3 of the adopted Derbyshire Dales Local Plan 2017.

9.0 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. Any works affecting bird nesting habitat, such as scrub, hedgerows or trees should be conducted outside the bird nesting season (1st March – 31st July). Under the terms of the Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000, it is an offence to disturb nesting birds or roosting bats. The work hereby approved does not override the statutory protection afforded to these species and you are advised to seek expert advice if you suspect that the demolition would disturb any protected species.
3. The Town and Country Planning (Fees for Applications and Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (SI 2012/2920) stipulate that a fee will henceforth be payable where a written request is received in accordance with Article 30 of the Town and Country Planning (Development Management Procedure) Order 2010. Where written confirmation is required that one or more Conditions imposed on the same permission have been complied with, the fee chargeable by the Authority is £97 per request. The fee must be paid when the request is made and cannot be required retrospectively. Further advice in regard to these provisions is contained in DCLG Circular 04/2008.

This decision notice relates to the following plans and documents:

4. The development hereby permitted shall be carried out in accordance with the following plans and documents received on 3rd June 2024:
 - Proposed Site Layout
 - Proposed Site Plan and Location Plan
 - Plot 1 Proposed Plans
 - Tree Survey Schedule
 - Tree Survey and Protection Plan
 - Arboricultural Impact Assessment (AIA)
 - Preliminary Ecology Appraisal (PEA)
 - Biodiversity Impact Assessment
 - Planning Application Form
5. The pre-commencement conditions attached to this permission have been imposed having served the requisite notice on the applicant(s) and having received a positive response (deemed or otherwise) under section 100ZA(5) of the Town and Country Planning Act 1990.
6. 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 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-droppedkerbs.aspx
or email highways.hub@derbyshire.gov.uk
before commencing any works on the highway.

7. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition)” that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Derbyshire Dales District Council.

8. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

9. Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

9.1. The application for planning permission was made before 12 February 2024.

9.2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

9.3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

9.4. The permission which has been granted is for development which is exempt being:

9.4.1 Development which is not ‘major development’ (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- the application for planning permission was made before 2 April 2024;
- planning permission is granted which has effect before 2 April 2024; or
- planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

9.4.2 Development below the de minimis threshold, meaning development which:

- does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

- Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A “householder application” means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
- Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).
- Self and Custom Build Development, meaning development which:
 - consists of no more than 9 dwellings;
 - is carried out on a site which has an area no larger than 0.5 hectares; and
 - consists exclusively of dwellings which are self-built or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

9.4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* “original planning permission means the permission to which the section 73 planning permission relates” means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

- If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.
- The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.
- The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

- If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.
- Those circumstances are that the conditions subject to which the section 73 permission is granted:
 - do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

- in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.