

Planning Committee 2024

APPLICATION NUMBER		24/00685/FUL	
SITE ADDRESS:		Royal Oak House Alfreton Road The Cliff Tansley Derbyshire DE4 5FY	
DESCRIPTION OF DEVELOPMENT		Conversion and extension of barn to form single storey dwelling.	
CASE OFFICER	Edward Vaudin	APPLICANT	Mr James Neville
PARISH/TOWN	Tansley	AGENT	N/A
WARD MEMBER(S)	Councillor Steve Flitter Councillor Joanne Linthwaite Councillor David Hughes	DETERMINATION TARGET	15 th November 2024
REASON FOR DETERMINATION BY COMMITTEE	Five or more unresolved objections	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 conversion of the existing barn - Impact on the character of the building and surrounding area - Impact on amenity for future occupiers and neighbouring properties - Parking and highways - Ecology

RECOMMENDATION
<ul style="list-style-type: none"> - The proposal of converting from a barn to dwelling is acceptable in principle in accordance with Policy S3 of the Local Plan. - The proposed development is not considered to have any significant impact on the character of the building or surrounding area. - The proposed development is not considered to result in any unacceptable impact on future occupiers or occupiers of neighbouring properties. - The proposed development is not considered to result in any unacceptable impact on highway safety or the road network. - The proposed development may impact upon protected species, specifically bats, however it is considered that the relevant tests can be passed such that Natural England are likely to grant the relevant licence. - Overall, it is considered that the proposal complies with all relevant policies of the development plan and it is therefore recommended that planning permission be granted subject to the conditions detailed in Section 8 of this report.

1.0 THE SITE AND SURROUNDINGS

1.1 This application concerns the barn to the rear of the former Royal Oak Public House, which is located on the north side of Alfreton Road (A615). The public house has a car park to the north and west side of the main building which is accessed off the main road to the west of the building. The site is located within the settlement of Tansley.

2.0 DETAILS OF THE APPLICATION

2.1 Planning permission is sought for the conversion and extension of the barn to the east side of the Royal Oak Public House to form a single storey dwelling.

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 Settlement Boundaries
PD1 Design and Place Making
PD3 Biodiversity and the Natural Environment
PD6 Trees, Hedgerows and Woodlands
HC19 Accessibility and Transport
HC21 Car Parking Standards

3.2 Other

National Planning Policy Framework (December 2023)
National Planning Practice Guidance

4.0 RELEVANT PLANNING HISTORY

24/00522/FUL	Change of use of part completed holiday flat and unused restaurant to two storey dwelling.	Pending Decision	-
24/00698/OUT	Erection of two dwellings with approval being sought for access	Pending Decision	-
22/00334/FUL	Change of use from public house/restaurant with ancillary residential accommodation to 1no. dwellinghouse and 2no. self-contained holiday lets with associated external alterations	Permitted with Conditions	18/05/2022
15/00822/FUL	Conversion and alteration of building to provide manager accommodation	Permitted with Conditions	12/01/2016
05/00227/ADV	Erection of replacement fascia signs and 1 no. totem sign	Permitted with Conditions	27/04/2005
0797/0415	FREE STANDING SINGLE SIDED SIGN BOARD	Approved	04/09/1997

5.0 CONSULTATION RESPONSES

5.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website.

Consultee Name	Position	Date	Comments
Local Highway Authority (Derbyshire County Council)	No objection	20/09/2024	No objection to the application subject to conditions.
Derbyshire Wildlife Trust	No objection	30/10/2024	No objection subject to conditions.
Tansley Parish Council	No objection	22/08/2024	No objection.
Environment Agency	No comment	08/08/2024	The development falls within flood zone 1 and therefore we have no fluvial flood risk concerns associated with the site. There are no other environmental constraints associated with the application site which fall within the remit of the Environment Agency.

6.0 REPRESENTATIONS RECEIVED

6.1 Nine letters of representation were received objecting to the application. The contents of these representations are summarised as follows:

- Impact on highway safety due to insufficient access
- Insufficient parking provision
- Impact on flooding / drainage
- Impact on local services (e.g. education, healthcare)
- Insufficient accuracy of plans and proposal
- Loss of privacy
- Insufficient bin storage space
- Insufficient footpath width
- Insufficient BNG information

6.2 It should be noted that the majority of the representations received address both this application and two other separate applications at the same site of references 24/00522/FUL and 24/00698/OUT.

7.0 OFFICER APPRAISAL

Principle of development

7.1 The site is located within the defined settlement boundary of Tansley which is a third-tier settlement in accordance with Policy S2 of the Local Plan.

7.2 Policy S3 of the Local Plan states that within defined settlement boundaries, planning permission will be granted for development where:

- a. the proposed development is of a scale, density, layout and design that is compatible with the character, appearance and amenity of the part of the settlement in which it would be located;

- b. it does not adversely affect the purposes of the Peak District National Park or is harmful to its valued characteristics;
 - c. it protects the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site and its buffer zone;
 - d. the proposed development retains any existing buildings that make a positive contribution to the character and appearance of the settlement;
 - e. the access would be safe and the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development;
 - f. it would have a layout, access and parking provision appropriate to the proposed use, site and its surroundings; and
 - g. it does not conflict with any other relevant policy of this Local Plan.
- 7.3 Criteria 'b' and 'c' are not relevant in this case as the site is not located within the Peak District National Park, Derwent Valley Mills World Heritage Site or its buffer zone.
- 7.4 Criteria 'a' and 'd' will be assessed in the character section of this report.
- 7.5 Criteria 'e' and 'f' will be assessed in the parking and highways section of this report.
- 7.6 Criterion 'g' shall be assessed throughout the report as the application is assessed against the relevant policies within the Local Plan.

Character

- 7.7 Policy PD1 seeks to ensure that any development is of a high-quality design that respects the character, identity and context of the Derbyshire Dales landscapes. This is supported by Policy PD5 which seeks to protect, enhance and restore the landscape character of the Plan area.
- 7.8 Policy S3 requires retention of existing buildings that make a positive contribution to the character and appearance of the settlement and safe access can be achieved. The proposed conversion seeks to retain these prominent buildings adjacent to the road boundary that make a positive contribution to the settlement.
- 7.9 In this case, it is evident through map regression that the barn dates back to at least the 19th century along side the Royal Oak public house building. The barn now has a corrugated metal roof with a traditional gable-ended design and lean-to rear extension. It is currently in a relatively dilapidated state and has a visual prominence from the east given its close proximity to the A615 Alfreton Road.
- 7.10 The proposed extensions consist of a front lean-to extension and a side gable-ended extension, both single storey and set at approximately the eaves height of the existing building. Materials are proposed to match those existing on the barn, the details of which shall be conditioned. The scale and nature of the extensions are considered to be subservient to the existing building. Visibility of the extensions from the street scene would be limited in part due to the siting of the barn to the rear of the Royal Oak building.
- 7.11 Overall, it is considered that the proposed conversion and extension of the barn is in keeping with the character of the surrounding area and would not result in any adverse impact on the street scene.

Amenity for future occupiers

- 7.12 Paragraph 135(f) of the NPPF states that planning policies and decision should ensure that developments, among other things, create places that are safe, inclusive and accessible

and which promote health and well-being, with a high standard of amenity for existing and future users.

- 7.13 The proposed dwelling would comply with the Nationally Described Space Standards for a single storey two-bedroom dwelling. Each habitable room would have good access to daylight and outlook and would be afforded sufficient privacy in its context. The dwelling would benefit from an approximately 60sqm private outdoor amenity space to the rear of the dwelling.

Impact on neighbour amenity

- 7.14 In line with Policy PD1 of the Local Plan, development must achieve a satisfactory relationship to the nearby properties such that it does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing, noise, light pollution or other adverse impacts on local character and amenity.
- 7.15 It is not considered that any of the proposed conversion works would result in any adverse impacts on the amenity afforded to neighbouring properties with regards to access to daylight, privacy or outlook.

Parking and highways

- 7.16 Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.17 The Local Highway Authority have considered this application in tandem with the proposals to erect two new dwellings to the rear of the Royal Oak as well as convert the barn into a dwelling, so as to address the cumulative impact on traffic and highways.
- 7.18 Two car parking spaces are proposed per dwelling which is considered acceptable.
- 7.19 The baseline for potential vehicle movements from this site is the established restaurant use on site, which at maximum intensity could generate several vehicle movements at any one time. It is considered that by comparison, the residential dwellings would result in less vehicle movements than the lawful use of the site. Trip generation is therefore considered to be low by comparison and in any case not warrant the need for a Transport Statement or Assessment.
- 7.20 The access to the site is located on a bend on Alfreton Road which currently has limited visibility to the east when egressing the site. The Applicant has agreed to improve the visibility of the access by removing a section of wall on the east side of the access. The Highway Authority is satisfied that this will improve the visibility of the access.
- 7.21 Sufficient space is available within the site for vehicles to access and egress the site in a forward gear.
- 7.22 Overall, it is considered that the proposal will not result in any unacceptable impact on highway safety and there would not be any severe residual cumulative impact on the road network. Conditions are recommended to ensure the parking and access are implemented in full prior to the occupation of the dwellings, the same applies to the provision of sheltered and secure cycle parking.

Ecology

- 7.23 Paragraph 186(a) of the NPPF states ‘when determining planning applications, local planning authorities should apply the following principles: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 7.24 The Conservation of Habitats and Species Regulations state that the competent local planning authority must exercise the functions which are relevant to nature conservation. As such, it is the statutory duty of duty of the planning authority to ensure that development doesn’t potentially any harm protected species.
- 7.25 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 Matlock Woods and Massin Hill Sites of Special Scientific Interest (SSSI). However, the development does not meet any of the identified risk criteria which would trigger a consultation with Natural England. Furthermore, negative impacts to designated sites as a result of the development are considered to be highly unlikely and are not discussed further.
- 7.26 The Protected Species Survey (Bats) PRA and Activity Survey Report (Paul Hickling Associates, October 2024) details that the identified barn building was previously surveyed by ECUS Environmental Consultants in 2015 which confirmed the presence of a common pipistrelle day roost within two crevices on the western elevation of the barn. The ECUS surveys therefore concluded that the application would require an EPS licence to mitigate for the loss of the roost.
- 7.27 The updated roost assessment determined that the building holds ‘High’ suitability for roosting bats due to the presence of recent droppings recorded within the cavity of the stone wall building. Three subsequent nocturnal surveys were therefore conducted by Paul Hickling Associates on the 10th of July, 30th July and 22nd August 2024. No bats were recorded to emerge or re-enter the barn during the surveys. However, due to the recent droppings recorded during the PRA, it is considered that the roost identified in 2015 still remains. An EPS Licence will therefore be required for the conversion works of the barn.
- 7.28 In reaching a decision, it is important that the local planning authority demonstrates how they have fully considered the three tests set out at Regulation 55 of the Conservation of Habitats and Species Regulations 2019 (Amendment) (EU Exit) and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 55 are as follows:
- (i) The action will be undertaken (i) for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (Regulation 55(2)(e))
 - (ii) That there is no satisfactory alternative (Regulation 55(9)(a)); and
 - (iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 55(9)(b))
- 7.29 In this instance, the first test is considered passed on the basis that the proposal will result in the provision of a new dwelling when the District Council cannot currently demonstrate a five-year housing land supply.
- 7.30 As part of the conversion of the building into a dwelling, it will be necessary to carry out repairs to the stonework as well as the plans to extend the building to the front and side in order to provide sufficient habitable room. It is not considered that there is any satisfactory

alternative that would be able to bring forward the conversion of this barn into a dwelling without impacting on the roost.

- 7.31 With regards to the third test, Derbyshire Wildlife Trust are satisfied that the loss of this roost would not be detrimental to the maintenance of the local bat population subject to the recommended mitigation measures being carried out.
- 7.32 Potential impacts to nesting birds, foraging and commuting bats, badgers, hedgehogs and common herptiles can be addressed via appropriate species conditions.
- 7.33 The submitted Statutory Biodiversity Metric Report (Paul Hickling Associates, October 2024) and associated metric tool highlights that all modified grassland will be lost as well as three small fruit trees to facilitate the barn conversion and associated garden. A section of other neutral grassland will be partially lost whilst ~0.02ha will be retained and ~0.012 will be enhanced to 'Moderate' condition to form the publicly accessible wildlife garden area inclusive of tree planting.
- 7.34 A single native hedgerow with trees of 'Moderate' condition borders the eastern boundary of the application site. Whilst the majority will be retained, approximately 0.01km will be lost. To mitigate for the loss, a single species-rich native hedgerow of 'Moderate' condition will be created along the western boundary.
- 7.35 Derbyshire Wildlife Trust, whilst encouraging the implementation of a communal wildflower garden, note that the realistic condition that the area will achieve should be considered, as realistic management given the proposed tree planting and anticipated footfall may impact the desired outcome of the area.
- 7.36 The redline boundary of the site has shrunk during the course of the application, specifically with the exclusion of the 10m immediately adjacent to the banks of the watercourse north of the site. On this basis, the watercourse does not need to be considered as part of the baseline assessment.
- 7.37 Overall, the baseline assessment of the site is considered to be accurate and the proposals can be achieved if implemented properly. The development therefore results in a +16.94% gain in habitat units and +14.33% gain in hedgerow units with trading rules satisfied, therefore achieving the +10% target as stipulated by the Environment Act 2021.
- 7.38 The details of the management and monitoring of the proposed habitat creation shall be secured by condition through provision of a Habitat Management and Monitoring Plan (HMMP). Furthermore, a Species Enhancement Plan (SEP) shall also be conditioned which, alongside precautionary working measures, is considered to provide appropriate safeguarding for protected species for which the site may be suitable such as birds, bats, badgers, hedgehogs and commons herptiles.

Trees

- 7.39 The proposal would directly result in the loss of three fruit trees all of Category C quality. Each of these trees are not considered to be mature and replacement trees are proposed and will be secured by condition. Trees within the habitat strip to the north of the barn are accounted for within the BNG baseline data.

8.0 RECOMMENDATION

- 8.1 To grant permission 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. 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 be carried out in accordance with the following approved plans:

170/001 Location Plan received 17/06/2024

170/002 Block Plan received 17/06/2024

174/006 Side Elevations received 05/08/2024

174/005 Front and Rear Elevations received 05/08/2024

174/004 Ground and First Floor Plans received 05/08/2024

174/034/001 Parking Layout received 20/08/2024

24/108/010 Visibility Splay Plan received 17/10/2024

Reason:

For the avoidance of doubt.

3. A scheme of hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority within 56 days of the commencement of development, the details of which shall include :-

a) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;

b) hard surfacing materials.

Reason:

To ensure a satisfactory landscaped setting in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

4. Prior to the commencement of development, a Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the LPA. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not.

Reason:

To ensure all habitat creation is appropriately managed and safeguarded.

5. Prior to building works commencing, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. 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:

- universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
- integrated / external bat boxes.
- insect bricks / towers.
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs.
- hedgehog box

A statement of good practice including photographs should be submitted to the local planning authority prior to the discharge of this condition, demonstrating that the enhancements have been selected and installed in accordance with the above. The enhancements should be implemented in accordance with the approved details and all features retained in that manner thereafter.

Reason:

To ensure the development positively contributes to the biodiversity of the area in accordance with Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017).

6. The conversion of the building shall not take place until an appropriate bat licence has been obtained. Confirmation of this shall be submitted to the LPA. Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in Protected Species Survey (Bats) PRA and Activity Survey Report (Paul Hickling Associates, October 2024) and amended as necessary based on any correspondence with Natural England. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the results of any monitoring works will be submitted to the LPA.

Reason:

To safeguard protected species.

7. No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until protective fencing measures have been erected in accordance with the details submitted to and approved in writing by the Local Planning Authority. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity in accordance with policies PD1 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

8. 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. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

Reason:

To safeguard protected species.

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

Reason:

To protect the external appearance of the building and preserve the character of the area in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

10. Prior to erection, details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be carried out in accordance with the approved details prior to the development being first brought into use.

Reason:

In the interests of visual amenity and the character and appearance of the area in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan 2017.

11. No part of the building shall be occupied until the areas indicated on the submitted plans to be set aside for car parking have been permanently provided in accordance with the details as shown in drawing ref: 175/034/001. The parking areas shall be retained as such thereafter.

Reason:

To ensure that parking provision is made on the site for the transport generated by the development.

12. No part of the development shall be occupied or brought into use until the existing vehicular access on Alfreton Road is provided with a visibility splay as defined on drawing ref: 24/108/010 which is cleared of all obstructions to visibility exceeding 600mm above carriageway level. The visibility splay shall subsequently be maintained free of any visual obstruction thereafter.

Reason:

In the interest of highway safety.

13. No part of the building hereby approved shall not 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 storage area shall be maintained for this purpose thereafter.

Reason:

To promote sustainable travel and healthy communities.

14. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

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

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

Reason:

To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity in accordance with policies PD1 and PD6 of the Adopted Derbyshire Dales Local Plan (2017).

15. No building works 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.

Reason:

To safeguard protected species.

16. 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 safeguard protected species.

17. Vegetation clearance should be reduced to an approximately height of 150 mm via a hand trimmer prior to ground works commencing to encourage individuals to move away from the construction areas. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of herptiles. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Any excavated material stored overnight should be searched prior to being used as infill. All other materials should be kept on raised areas, namely pallets, to avoid creating refugia. Should a great crested newt be found at any point during construction works, works must cease immediately, and an ecologist will be sought who will advise on the appropriate actions, including applying for a licence.

Reason:

To safeguard protected species.

18. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interest of highway safety.

9.0 NOTES TO APPLICANT

The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant which has resulted in revised proposals which overcame initial concerns with the application relating to highways and ecology.

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

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.

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.

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

1. The application for planning permission was made before 12 February 2024.
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.
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.
4. The permission which has been granted is for development which is exempt being:
 - 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:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) 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).
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) 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
 - ii) 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).
 - 4.3 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.

4.4 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).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

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:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) 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.