

Planning Committee 2024

APPLICATION NUMBER		24/00698/OUT	
SITE ADDRESS:		Royal Oak House Alfreton Road The Cliff Tansley Derbyshire DE4 5FY	
DESCRIPTION OF DEVELOPMENT		Erection of two dwellings with approval being sought for access	
CASE OFFICER	Edward Vaudin	APPLICANT	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 development of the site - Impact on the character of the surrounding area - Impact on amenity for future occupiers and neighbouring properties - Parking and highways - Ecology and biodiversity - Impact on trees - Flooding and drainage

RECOMMENDATION
<ul style="list-style-type: none"> - The principle of development of this site for two dwellings is accepted in Policy S4 as the site is on the edge of a defined third-tier settlement boundary in a situation where the District Council cannot demonstrate a five-year housing land supply. - It is considered possible to site two dwellings at this location in a design that would be acceptable to the character of the area. - It is not considered that there would be any likely adverse impacts on the amenity afforded to the occupiers of neighbouring properties. - The Local Highway Authority are satisfied that the proposed development is acceptable on parking and highway grounds. - The proposed development is not considered to result in any harm to protected species and it will deliver a net gain in biodiversity. Appropriate conditions are recommended to ensure the application is acceptable on ecology grounds. - The proposal will result in the loss of a series of low quality trees, however the tree officer is satisfied that the justifications for these removals and the proposed replanting is acceptable and can be worked into landscaping at the reserved matters stage. - The proposed development is not considered to have any material impact on flood risk.

Overall, it is considered that the proposal complies with all relevant policies of the development plan and it is therefore recommended:

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.

1.0 THE SITE AND SURROUNDINGS

- 1.1 The application site consists of a parcel of land to the north of the Royal Oak public house in Tansley off Alfreton Road. The parcel includes the existing public house car park and beer garden as well as amenity space running down to the brook to the north of the site which forms the boundary with properties on Ashley Close.
- 1.2 The site is partially located within the settlement of Tansley and partially in the open countryside.

2.0 DETAILS OF THE APPLICATION

- 2.1 Outline planning permission is sought for the erection of two dwellings with approval being sought for access at this stage and all other matters reserved.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

3.1 Adopted Derbyshire Dales Local Plan 2017

S1 Sustainable Development Principles
S2 Settlement Hierarchy
S4 Development in the Countryside
PD1 Design and Place Making
PD3 Biodiversity and the Natural Environment
PD5 Landscape Character
PD6 Trees, Hedgerows and Woodlands
PD8 Flood Risk Management and Water Quality
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

24/00685/FUL	Conversion and extension of barn to form single storey dwelling.	Pending Decision	-
24/00522/FULL	Change of use of part completed holiday flat and unused restaurant to two storey dwelling.	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	Objection	22/08/2024	Objection on grounds of dangerous access/egress onto bend with little sight lines available.
Coal Authority	No comments	15/08/2024	No comments.
Environment Agency	No comments	19/08/2024	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.
Trees and Landscape	No objection	25/09/2024	Tree survey and fencing plan recommended to be secured by condition.
Environmental Health	No objection	04/09/2024	No objections in principle. Recommended phase 1 contaminated land assessment. Hours of construction condition recommended also.

6.0 REPRESENTATIONS RECEIVED

6.1 11 letters of representation were received objecting to the application. The contents of these representations are summarised as follows:

- Site is located outside of Tansley
- Increased noise and light pollution
- Overbearing on neighbours

- Impact on biodiversity and protected species
- Issues with BNG calculations provided
- Impact on highway safety due to insufficient access
- Insufficient parking provision
- Impact on flooding / drainage
- Existing combined foul system is not working effectively
- Impact on local services (e.g. education, healthcare)
- Insufficient accuracy of plans and proposal
- Loss of privacy
- Loss of trees
- Insufficient bin storage space
- Insufficient footpath width
- Noise disruption from construction
- Potential for further development on site which will exacerbate above issues

6.2 A letter from Councillor Steve Wain was received wishing to raise the existing issues with the combined foul system. The letter also made reference to the Bentley Brook catchment assessment and requested that the LPA liaise with the Water Company and the Environment Agency prior to determining the application.

7.0 OFFICER APPRAISAL

Principle of development

7.1 Whilst the site is partially located within Tansley, the site predominantly falls outside of Tansley's settlement boundary, meaning it is located within the countryside. Policy S4 of the adopted Local Plan states that in such locations, the District Council will seek to ensure that new development protects and, where possible, enhances the landscapes' intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment and the setting of the Peak District National Park whilst also facilitating sustainable rural community needs, tourism and economic development.

7.2 Policy S4 establishes that planning permission will be granted for a range of specified developments. Criterion 'I' sets out the types of residential developments that may be acceptable in the countryside. The proposed development does not fall under any of the listed types of residential development with the exception of 'development on non-allocated sites on the edge of defined settlement boundaries of first, second and third tier settlements in circumstances where there is no five-year housing land supply subject to consideration against other policies in the Local Plan and the provisions of the NPPF. In this case, the site lies adjacent to the boundary of Tansley which is a third-tier settlement. Furthermore, the District Council cannot currently demonstrate a five-year housing land supply. On this basis, an application for this proposal can be supported in principle by Policy S4.

Character

7.3 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.

7.4 Other than access, all matters are reserved at this time, in any case, it remains important to consider at this stage whether the use and quantum proposed is appropriate for the character of the surrounding area.

- 7.5 The proposal consists of two dwellings on the land to the rear of the former Royal Oak public house building. The site is bound to the north by a brook and then residential properties on Ashley Close. To the west and east of the site are areas of grassland. The site slopes downhill to the north with the brook forming the base of a small valley.
- 7.6 There is sufficient space to the rear of the existing buildings and parking area to deliver two dwellings based on the indicative plans provided. The local area includes a range of grains of development, including detached, semi-detached and terraced residential development. The dwelling could maintain a close relationship with the space afforded to the existing buildings on site, forming a cluster of residential dwellings (subject to other live planning applications) without resulting in any significant encroachment into the countryside or such that would conflict with the objectives of defining the areas of settlement and countryside accordingly.
- 7.7 Overall, it is considered that the siting of two dwellings on this parcel of land is feasible without result in any adverse impact on the character of the surrounding area or street scene. Detailed designs will be reviewed, including landscaping, at the reserved matters stage.

Amenity for future occupiers

- 7.8 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.
- 7.9 As this is an outline application, details of the amenities afforded to the future occupiers are limited. It is however evident that there is sufficient space on site to deliver two dwellings of a size compliant with the Nationally Described Space Standards, with suitable garden space and with an acceptable relationship between the two. At the reserved matters stage, it would need to be demonstrated that each dwelling has ample access to daylight, privacy and outlook.

Impact on neighbour amenity

- 7.10 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.
- 7.11 Layout is a reserved matter and is therefore not up for consideration at this time, however based on the indicative plans, it is possible that two dwellings could be located on site with a separation distance of approximately 47-60m from the dwellings on Ashley Close with a distance of approximately 36m to the brook that boundaries the site to the north.
- 7.12 The indicative plan shows that the dwellings could be sited approximately 22m from Forge Cottage to the west and 18m from the Royal Oak itself. It is noted that the barn adjacent to the Royal Oak is proposed for conversion to a dwelling. Whilst this is close to the indicative siting of the dwelling, the perpendicular relationship and building line makes it unlikely that these buildings would conflict with each other.
- 7.13 Overall, it is considered that there is sufficient space on site to deliver two dwellings without resulting in adverse impacts on the amenities afforded to the occupiers of neighbouring properties. Detailed designs will need to demonstrate that they respect neighbour amenity at the reserved matters stage.

7.14 Objections have been received regarding potential noise, light and odour pollution. Residential uses of this scale are not considered to inherently result in adverse levels of noise, light or odour pollution such that would require additional information or mitigation measures. Powers remain in place to deal with any statutory nuisances that may arise during the course of a dwelling's occupation.

Parking and highways

7.15 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.

7.16 Policy HC21 of the adopted Local Plan states that vehicular parking for new development should be provided having regard to adopted standards, as set out in Appendix 2 of the Local Plan.

7.17 The Local Highway Authority have considered this application in tandem with the proposals to convert the Royal Oak into a dwelling and 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 It is considered at this stage, that the proposed development would not result in any adverse impacts on protected species or habitats, however this is subject to development being carried out with appropriate precautionary working measures relating to nesting birds, bats, badgers, hedgehog and herptiles should be implemented and secured via appropriate conditions. Furthermore, details of the layout and landscaping will be reviewed at the reserved matters stage.
- 7.27 The application site comprises developed land sealed surface, modified grassland, other neutral grassland and a single individual rural tree. The habitats onsite are considered to be of 'Local' value due to the connectivity to the surrounding environment. No notable plant species are present on site based on the information provided within the net gain report and associated metric. However, without mitigation, the loss of modified grassland, other neutral grassland and the individual tree will result in a net loss of biodiversity.
- 7.28 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 a single rural tree to facilitate the development to two dwellings and associated gardens. A section of other neutral grassland will be partially lost whilst ~0.022ha will be retained and ~0.06 will be enhanced to 'Moderate' condition to form the publicly accessible wildlife garden area inclusive of tree planting.
- 7.29 The creation of a 'Moderate' condition native hedgerow to the rear of the vegetation gardens will act as a boundary feature between the wildflower garden to the north of the application site.
- 7.30 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. BNG proposals shall be monitored further through to the reserved matters stage when landscaping is considered.
- 7.31 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.
- 7.32 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 +26.73% gain in habitat units and +0.07 unit gain in hedgerow units with trading rules satisfied, therefore achieving the +10% target as stipulated by the Environment Act 2021.
- 7.33 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

- 7.34 Policy PD6 of the Local Plan states that development should seek where appropriate to enhance and expand the District's tree and woodland resource. Trees, hedgerows, orchards or woodland of value should be retained and integrated within development wherever possible. Where their loss is justified, replacement provision will be required utilising indigenous tree species and hedgerows that are in sympathy with the locality and the site and, as a minimum, of equivalent value to the trees and hedgerows to be lost.
- 7.35 An Arboricultural Assessment has been provided which found that "an overwhelming majority of the trees on site have no particular individual merit; their potential is limited by their etiolated habit, disease, poor conformation or physical damage." There are three notable trees, including a horse chestnut (T9, Cat U), sycamore (T15, Cat A) and ash (T16, Cat B). In total there is one category A tree, two category B trees, 32 category C trees and seven category U trees.
- 7.36 At this stage, it is evident that there is sufficient space on site to locate two dwellings without resulting in any adverse impact on the surrounding trees. The District Council's tree officer is satisfied that the proposed tree removals have been appropriately justified and that replacements will be provided accordingly.

Flooding and drainage

- 7.37 Concerns have been raised regarding flooding and drainage of the site. The proposed development is located in Flood Zone 1, meaning it is at a relatively low risk of flooding. It is proposed for main connections to be made to the existing sewerage and drainage systems. A sustainable drainage system is proposed for disposing of surface water which is recommended for condition to be brought forward as part of any reserved matters application for this scheme.
- 7.38 Overall, it is not considered that the proposed development would result in any adverse impacts on flooding in that it would not increase the number of people at risk of flooding nor materially increase flood risk elsewhere. Drainage can be appropriately managed on site through the use of planning conditions.

Planning balance

- 7.39 Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.
- 7.40 The National Planning Policy Framework (NPPF) must be taken into account as a material consideration in planning decisions.
- 7.41 Paragraph 11 of the NPPF sets out that there is a presumption in favour of sustainable development. For decision-taking this means:
- approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance 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 this Framework taken as a whole

7.42 Footnote 8 of the NPPF clarifies that out-of-date policies include ‘for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraphs 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.

7.43 The District Council cannot currently demonstrate a five-year housing land supply. On that basis, as this application involves the provision of housing, the development plan is considered to be out-of-date. As such, the only circumstances where refusing permission would be appropriate are set out in criteria (i) and (ii) of paragraph 7.38 of this report.

7.44 In this case, the proposed development would result in the provision of two new dwellings and it is considered to accord with the relevant development plan policies. On this basis, it is recommended that planning permission be granted subject to conditions.

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

Reason:

This is a statutory period which is specified in Section 92 of the Town and Country Planning Act 1990.

2. An application for details of the following matters (hereafter referred to as the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any works:-

- a) the scale of the development;
- b) the layout of the development;
- c) the external appearance of the development;
- e) the landscaping of the site.

The development shall thereafter be implemented in accordance with the approved details.

Reason:

The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5(1) of the Town and Country Planning (Development Management Procedure) Order 2015.

3. Any application submitted pursuant to the approval of all reserved matters shall also include details of detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra non-statutory technical standards for sustainable drainage systems (March 2015). The approved drainage system shall be

implemented in accordance with the approved details prior to the occupation of the dwellings hereby approved.

Reason:

In the interests of ensuring adequate surface water drainage in accordance with government guidance contained in the National Planning Policy Framework.

4. The development hereby approved shall be carried out in accordance with the following approved plans:

- 170/001 Location Plan received 29/10/2024
- 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.

5. 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.

6. 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).

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. 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.

10. 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.

11. 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.

12. 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).

13. 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.

14. 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.

15. 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.

16. Construction work shall only be carried out between the hours of 08.00 and 19.00 on Mondays to Fridays; 08:00 - 13:00 Saturdays on Saturdays and at no time on Sundays and Bank Holidays unless specifically agreed in writing by the Local Planning Authority beforehand.

Reason:

To safeguard the amenity of neighbouring residents and the appearance of the development to comply with government guidance contained in the National Planning Policy Framework and Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

17. 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.