



**OPEN REPORT
COMMUNITY AND ENVIRONMENT COMMITTEE**

Community and Environment Committee – 21st November 2024

PLANNING APPEAL: GRITSTONE ROAD, MATLOCK

Report of the Director of Place and Economy

Report Author and Contact Details

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Wards Affected

Matlock West

Report Summary

The report sets out options for defending an appeal at a Planning Inquiry relating to an application which was recommended for refusal by Officers and refused by the Planning Committee.

Recommendations

1. That the approach to defending the appeal set out in section 3 of the report is agreed.
2. That Council be requested to approve a supplementary revenue budget of £61,778 to provide for the extension of the contract of the Interim Principal Planning Officer be to 31 March 2025.

List of Appendices

None

Background Papers

- Planning application 18/01242/EIA (Planning Committee 28th March 2024)

Consideration of report by Council or other committee

No

Council Approval Required

Yes

Exempt from Press or Public

No

PLANNING APPEAL: GRITSTONE ROAD, MATLOCK

1. Background

- 1.1 An appeal has been lodged against the refusal of planning permission for a residential development on land between Sandy Lane, Bent Lane and Gritstone Road, Matlock. The Planning Inspectorate have received an appeal by the applicant (William Davis Limited) and propose to hold the appeal by Public Inquiry over eight days from 4 February 2025.
- 1.2 At its meeting on 26 September 2024, the Council resolved to approve a further supplementary revenue budget in 2024/25 for additional expenditure of £250,000, associated with defending other planning appeals, to be financed from the General Reserve. Budgetary provision for defending this appeal is therefore available.
- 1.3 The report outlines the options available to the District Council in defending the appeal and sets out a recommended approach.

2. The Appeal

- 2.1 An appeal will be held to consider the refusal of the outline planning application for site access for up to 345 Residential Units, Class E 'Commercial' uses including Retail and a Restaurant / Cafe, a Hot Food Takeaway (Sui Generis) Unit and Open Space including a Countryside Park and Play Area and associated landscaping and surface water attenuation at land between Sandy Lane, Bent Lane, And Gritstone Road, Matlock for William Davis Limited.
- 2.2 Planning permission was refused by the Planning Committee on 28th March 2024 for the following reasons:
 1. *The application lacks sufficient detail in order for the Local Planning Authority to be satisfied that the development can be delivered without resulting in flood risk on site, elsewhere or presenting unacceptable risk to public safety contrary to the requirements of Policies S1 and PD8 of the Adopted Derbyshire Dales Local Plan (2017) and the objectives of paragraphs 157, 173 and 175 of the National Planning Policy Framework (2023).*
 2. *Without any understanding of the final design and construction of the surface water attenuation features proposed to accommodate habitat of very high distinctiveness / principal importance to be translocated, the Local Planning Authority cannot be satisfied that the development would not result in an unacceptable loss of biodiversity. The development is therefore contrary to the requirements of Policies S1, PD3 of the Adopted Derbyshire Dales Local Plan (2017) and paragraph 180 of the National Planning Policy Framework (2023).*

3. *Insufficient information has been submitted to demonstrate that the surface water attenuation features serving phases 2 - 4 and link road crossing the valley feature can be delivered in a manner that would not result in harm to the character and appearance of this part of Matlock, contrary to the requirements of Policies S1, S7, PD1 and PD5 of the Adopted Derbyshire Dales Local Plan (2017) and Policy contained in the National Planning Policy Framework (2023).*
4. *The application does not consider or include a mechanism to secure the level of affordable housing across the different phases of the development that can potentially be viably made and the applicant is not willing to include review mechanisms and clawback provisions in any legal agreement. The development therefore fails to maximise the delivery of affordable housing on this strategically important site and across the plan area contrary to the requirements of Policies S10 and HC4 of the Adopted Derbyshire Dales Local Plan (2017)*

- 2.3 The District Council will be required to arrange a suitable venue for the Public Inquiry.
- 2.4 The Council has notified all interested parties of the appeal. The Council is now required to send to the Inspector its full Statement of Case by 4 December 2024.
- 2.5 The District Council and the appellant are both required to provide complete Proofs of Evidence to the Planning Inspectorate by 7 January 2025.

3. Options Considered and Recommended Proposal

- 3.1 The Council will need to put forward expert witnesses, because the reasons for refusal are technical in nature. To defend the District Council's case at the Public Inquiry, it is therefore considered necessary to identify and appoint suitably experienced, independent experts who are prepared to defend the reasons for refusal. This is likely to include experts in drainage, biodiversity, viability and landscape.
- 3.2 Legal Counsel is required to act as legal advocate for the District Council at the Inquiry.
- 3.3 Because of the Planning Inspectorate's deadlines, there is a need to have procured and appointed expert witnesses and Counsel at an early opportunity.
- 3.4 The preparing for the appeal, managing the Council's case and appearing at the Inquiry as the Council's lead planning witness will take a substantial proportion of the time of the Interim Development Manager for the coming months. In order to maintain a degree of management for the planning service

during this period, it is necessary to extend the contract of the Interim Principal Planning Officer to 31 March 2025.

4. Consultation

- 4.1 All persons who were notified or consulted about the original application, and any other interested persons who made representations to the Council about the, have been notified by that the appeal has been made. They were told:
- i) that any comments they made at application stage will be sent to the Planning Inspectorate and the appellant and will be considered by the Inspector. If they want to make any additional comments a date will be specified when they must submit them;
 - ii) when and where the appeal documents will be available for inspection;
 - iii) that the Planning Inspectorate will not acknowledge representations. They will, however, ensure that letters received by the deadline are passed on to the Inspector dealing with the appeal;
 - iv) that they can get a copy of the booklet 'Guide to taking part in planning appeals proceeding by Inquiry on GOV.UK <https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal>;
 - v) that the decision will be published on GOV.UK.

5. Timetable for Implementation

- 5.1 The Public Inquiry will be held over a planned eight days, with the start date proposed as 4 February 2025. A decision will to be issued by the Planning Inspectorate following the close of the Inquiry.

6. Policy Implications

- 6.1 None.

7. Financial and Resource Implications

- 7.1 At its meeting on 26 September 2024, the Council resolved to approve a further supplementary revenue budget in 2024/25 for additional expenditure of £250,000, associated with defending other planning appeals, to be financed from the General Reserve. Budgetary provision for defending this appeal is therefore available.
- 7.2 It should be noted that there is a risk that the Planning Inspector could determine that the Council must meet some or all of the appellant's costs, which could be significant. Should this be the case, approval would be sought for a further supplementary budget should the provision above not be sufficient.
- 7.3 It will be necessary to seek approval from Council for a supplementary revenue budget in 2024/25 to reflect the proposed expenditure of £61,778 for the extension of the Interim Principal Planning Officer contract to 31 March 2025.

This would be financed by the use of the General Reserve. As this expenditure is “one-off”, the General Reserve is permitted under the Council’s Medium Term Financial Strategy. This recommendation will be included in the Quarter 2 Revenue Monitoring report to be taken to full Council on 28 November 2024 to seek approval for this supplementary revenue budget and its financing.

7.3 The financial risk of this report’s recommendations is assessed as medium.

8. Legal Advice and Implications

8.1 This report is being considered due to the need to prepare for a Public Inquiry within the timescales required by the Planning Inspectorate. The legal risk of challenge associated with taking the decisions as recommended has been assessed as medium.

9. Equalities Implications

9.1 None in this report.

10. Climate Change and Biodiversity Implications

10.1 None in this report.

11. Risk Management

11.1 The approach recommended in the report seeks to maximise the robustness of the Council’s case at the forthcoming Public Inquiry. Securing strong representation is necessary for a successful defence of the appeal.

Report Authorisation

Approvals obtained from Statutory Officers:

	Named Officer	Date
Chief Executive	Paul Wilson	13/11/2024
Director of Resources/ S.151 Officer (or Financial Services Manager)	Gemma Hadfield	13/11/2024
Legal Services Manager	Kerry France	13/11/2024